

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (BA) NO. 297/2022
Ramdas Bhiwaji Vaitkar and anr...Versus...State of Maharashtra

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Mr. Anil Mardikar, Senior Advocate assisted by Ms. Akshaya Kshirsagar, Advocate for applicants
Ms. T.H.Udheshi, APP for non-applicant /State
Mr. M.V.Rai, Advocate for complainant assisting the prosecution

CORAM : AVINASH G. GHAROTE, J.

DATE : 29/04/2022

1] Heard Mr. Anil Mardikar, learned Senior Counsel for the applicant and Ms. Udheshi, learned APP for non-applicant No.1/State assisted by Mr. Rai, learned counsel for the complainant. When the matter was heard on 22.4.2022, the following observations were made.

“Heard Mr. Mardikar, learned Senior Counsel for the applicant and Ms. Udheshi, learned APP for non-applicant No.1/State assisted by Mr. Rai, learned counsel for the complainant.

2] The applicants have been arraigned for the offence punishable under Sections 498-A, 304B, 323, 504 r/w 34 of the IPC in Crime No. 726/2021. The incident is dated 25.11.2021, on which date the deceased Shraddha, the daughter-in-law of the applicants, has attempted to commit suicide by hanging herself by a long scarf (dupatta), whereupon the doors to her room on the first floor were broken open by her husband, the neighbour Mr. Gawande, the applicants, as well

as the father of the deceased and Shraddha was taken to hospital and was administered aid, however, she has succumbed on 30.11.2021.

3] Mr. Mardikar, learned senior counsel for the applicants submits that the applicants have been falsely implicated in the matter, as the charge-sheet dated 25.2.2022, demonstrates that there was no tiff/quarrel between the applicants and the deceased on the fateful day, for which reliance is placed upon statement of Ramrao Gawande (page 172). He therefore submits that since there are no allegations of any demand, from the date of marriage i.e. 19.5.2019 till 25.11.2021 and such a story is forthcoming only after 30.11.2021, the date of demise of Shraddha, it is not worthy of any belief whatsoever. He further submits that the complaint by Bhanudas Motiram Kalinge (father of deceased) and who is claimed to be on the spot (page 53) and Ramrao Gawande (page 172) depict a totally contradictory position, regarding the state of affairs, prevailing as on 25.11.2021 and therefore by relying upon **State of Punjab vrs. Parveen Kumar, (2005) 9 SCC 769** (para 10) and **Suresh Arjun Dodorkar vrs. State of Maharashtra, 2005 All MR (Cri) 1599** (para 9), it is contended that the benefit would go to the applicants. Further relying upon **Kans Raj vrs. State of Punjab and ors (2000) 5 SCC 207** (para 5) and **K. Subba Rao and ors vrs. State of Telangana (2018) 14 SCC 452** (para 6), it is contended that the tendency to rope in the in-laws and other members of the family, is on a rising trend and therefore an application for bail ought to be considered in light of the above tendency. He therefore submits that considering the contradictions between the statements of the complainant as well as that of Ramrao Gawande and the fact that there is no complaint whatsoever from the date of marriage till 30.11.2021, the

applicants are entitled for bail. The age the applicants which is respectively 70 and 60 years is also pressed into service for the above purpose.

4] Learned APP vehemently opposes the application and submits that the statements of all the witnesses recorded namely Ganesh (son of the complainant) (page 120), Mathura (mother of the deceased) (page 122), Sudhakar (page 126) and Kavita (page 127), all of whom are related to the deceased and so also the statement under Section 164 of the Cr.PC of complainant, consistently speak about the demand and harassment. She further invites my attention to the PM report and specifically row No. 17, page no. 82, to submit that apart from the ligature mark on the throat, there are 8 more injuries, all of which are ecchymosis patches on various parts of the body of the deceased and so also various injection pricks which would demonstrate the harassment.

5] When a query was made as to how the injuries at Sr. No. 2 to 8 in para 17 of the PM report would be material, considering the fact that deceased was admitted in the hospital on 25.11.2021 till 30.11.2021 when she has passed away, learned APP seeks time to explain them, considering which list the matter on **25.4.2022.**”

2] Today learned APP with the assistance of learned counsel Mr. Rai submits that there is nothing in the charge-sheet to indicate that the ecchymosis patches and the injection pricks on the body of the deceased were present on 25.11.2021. She however submits that the photographs indicating the same were taken by Veena Vijay Wasankar

(pg.159). However, the statement of Veena indicates that the photographs were taken on 30.11.2021, when the deceased was still alive and taking treatment in the hospital. As per the statement of learned senior counsel Mr. Mardikar, the medical record of Silver City Hospital indicates that there are as many as 74 injections administered to the deceased during the course of the treatment, however, that is besides the point, as the ecchymosis patches and the injection pricks are not demonstrated to be on the body of the deceased on 25.11.2021, considering which looking to the age of the applicants, which is 70 and 60 years respectively, I do not see any reason to continue their further incarceration, as the charge-sheet is already filed on record. Hence the following order.

O R D E R

I] The application is allowed.

II] The applicant No.1 Ramdas Bhiwaji Waitkar and applicant No.2 Sau. Ushabai Ramdas Vaitkar, be released on bail in Crime No. 726/2021 registered by the Police Station Shivaji Nagar, Khamgaon, for the offence under Sections 498-A, 304-B, 323, 504 r/w 34 of the IPC, on their executing PR bond in the sum of Rs.75,000/- each with two solvent sureties of the like amount.

III] The applicants shall not tamper the prosecution evidence or try to undue influence the prosecution witnesses

directly or indirectly in any manner.

IV] The applicants shall attend the trial before the learned Sessions Court on each and every date and shall ensure that the trial is not protracted on his count.

V] Any violation of the above conditions shall result in cancellation of bail.

JUDGE

Rvjalit