

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

Criminal Application (ABA) No. 668 of 2022

Lomesh S/o Pandhari Vaidya and another

Versus

State of Maharashtra, through Police Station Officer,
Police Station Bhandara, Tah. Bhandara, Dist. Bhandara.

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

Court's or Judge's Order

Shri S.P.Dharmadhikari, Senior Advocate assisted by
Shri C.S.Dharmadhikari, Advocate for the applicant.
Shri S.M.Godshwar, APP for the State / Non-applicant

CORAM : ANIL S. KILOR, J.

DATED : 4th OCTOBER, 2022.

The applicant is seeking pre-arrest bail under Section 438 of the Code of Criminal Procedure in Crime No. 379 of 2022 registered with Police Station Bhandara, Tahsil Bhandara for the offence punishable under Sections 304-B, 306, 498-A read with Section 34 of Indian Penal Code.

2. The prosecution case in short is that in the year 2015 the marriage of daughter of the complainant came to be solemnized with Pravin S/o Pundlik Lanjewar, the brother of applicant no.2. It is alleged that while the husband of the deceased was living at Pauni, the deceased lived with her father-in-law and

mother-in-law at Tumsar. After their marriage she suffered constant harassment caused at the hands of her.

3. It is further alleged that whenever deceased came down to the complainant's house, she would narrate the incident of harassment by her in-laws. It is further alleged that the husband of the deceased would assault her under the influence of alcohol, due to which the deceased sought for a mutual divorce and dissolved it vide decree of divorce, in the year 2019.

4. It is further stated that the husband of the deceased performed second marriage which was also dissolved. Thereafter, on a promise by the husband that he will treat the deceased properly and keep her in good environment. The deceased re-married co-accused Pravin in the year 2021 at Nagpur.

5. It is further alleged that she was continued to be ill-treated and in the morning on 26th August, 2022 deceased called the complainant and informed that her in-laws are beating her and abusing verbally and that she does not wish to continue to live there. She requested the complainant to take her back.

6. Thereafter, the complainant received a phone call from the police station informing that the deceased committed suicide by hanging herself and

accordingly above referred First Information Report came to be lodged against the accused persons.

7. Shri Dharmadhikari, learned Senior Advocate for the applicant submits that applicant no.2 is the sister of the husband of the deceased whereas, applicant no.1 is the husband of the applicant no.2. It is submitted that applicants are resident of Bhendara which is 70 kilometer away from the matrimonial house of the deceased. He submits that applicants have been falsely implicated in the alleged offence.

8. He further submits that the deceased after divorce with the co-accused Pravin, re-married him and thus it can be said that had there been any ill-treatment at the hands of in-laws including the applicants, she would not have performed re-marriage with co-accused Pravin.

9. He further submits that the allegations are vague and no specific role is attributed to the applicants, which will satisfy the requirement as to attract the definition of abettor. It is therefore submits that the custodial interrogation of the applicants is not necessary and accordingly he prays for pre-arrest bail.

10. On the other hand, Shri Ghodeshwar, learned Additional Public Prosecutor opposed the

application and submits that considering the evidence collected by the Investigating Officer, there is a *prima facie* evidence to show the involvement of the applicants in the alleged offence. Accordingly, he prays for rejection of the present application.

11. In this case there are peculiar facts namely after the divorce between the deceased and the accused Pravin, they got re-married.

12. From the case diary or from the First Information Report, it can be seen that the applicants are resident of village Bhendara which is at a distance of 70 kilometer. No specific role or overt act is attributed to the applicants, which will amount to abatement to *prima facie* attract Section 306 of the Indian Penal Code.

13. Thus, considering the character of the evidence available on record against the applicants, I am of the opinion that the custodial interrogation of the applicants is not necessary. Accordingly, I pass the following order.

- i. Criminal application No.668 of 2022 is allowed;
- ii. Order dated 19th September, 2022 is hereby confirmed.

[ANIL S. KILOR, J.]