

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1032 OF 2023

Babulal s/o Devidas Rathod & another Applicants

Versus

The State of Maharashtra & another Respondents

Mr. S. S. Rathi, Advocate for the applicants.
Mr. G. O. Wattamwar, APP for the State.

CORAM : R. M. JOSHI, J.
DATE : 9th OCTOBER, 2023.

PER COURT :

1. Applicants are apprehending arrest in connection with Crime No. 204/2023 registered with Jintur Police Station, Tq. Jintur, Dist. Parbhani, for the offences punishable under Sections 306, 498A read with Section 34 of Indian Penal Code.

2. First informant is the father of deceased Sonu who was married to Vishnu Rathod in the year 2016. According to him, for the first two years of marriage, she was properly treated at her matrimonial home and thereafter the husband has started demanding money for the reason of medical treatment of the child. Both went to Pune by keeping the children with the informant.

Thereafter the husband started demanding money for his own treatment. It is stated that on that count the husband used to cause harassment to the daughter of the informant. Informant reported incident dated 4th June, 2023 wherein the deceased had called him informing that the present applicants and the co-accused are assaulted her for bringing money from the informant. Thereafter the deceased went missing and her dead body was found on the next day at around 4.00 pm.

3. Learned counsel for applicants submits that applicant No. 2 is sister-in-law of the deceased and applicant No. 1 is husband of applicant No. 2. It is further stated that though the applicants were residing in the same village, they were not jointly residing with the deceased and her family. It is submitted that there is no allegation against them that from the time of marriage in the year 2016 till the date of the incident, at any time, they demanded any money or caused harassment of the deceased on that count. As far as incident dated 4th June, 2023 is concerned, it is submitted that there are inconsistencies in the statement of informant regarding intimation given by the deceased to him about the alleged harassment.

4. Learned APP opposed the application by drawing attention of this Court to the post mortem report which indicates cause of injury on the person of the deceased which supports the allegations about she being physically harassed on 4th June, 2023. It is submitted that considering the state of mind of the informant, minor inconsistencies about the timing need to be ignored. It is also submitted that the statement of witnesses recorded during the course of investigation also support the allegations against the present applicants and their involvement in the crime. Thus, according to the prosecution, there is prima facie material which sows that present applicants are responsible for the suicidal death of the deceased. However, learned APP submits that he has no specific instructions with regard to the residence of the applicants together with the deceased or not.

5. There is no dispute about the fact that present applicants were not sharing the household with the deceased. From the First Information Report as well as from the statement of witnesses it is clear that initially there was no dispute between the couple and later on, on account of money required for the treatment

of husband, there used to be demand of money. From the First Information Report as well as from the statements recorded during the course of investigation, there is nothing to indicate that present applicants have caused any harassment to the deceased for not bringing money from the informant. In fact, report shows that after some time, deceased and her husband started staying at Pune and the children were kept into care of informant. Thus, question of applicants staying together with deceased does not arise.

6. As regards the incident dated 4th June, 2023, except of the statements of informant and his relatives, no statement of neighbour of the deceased is recorded which would indicate occurrence of the incident and involvement of present applicants in the said assault. No doubt, there is substance in the contention of learned APP that there are injuries on the person of the deceased, however, in the absence of any prima facie material to indicate the same to be attributable to the present applicants, no presumption can be drawn to that effect, more particularly, when there is nothing to indicate that applicants and deceased were staying together.

7. In order to attract offence punishable under Section 306 of Indian Penal Code, there has to be intention of the applicants to drive the deceased to commit suicide. For want of specific allegation against them till 4th June, 2023 of causing harassment to the deceased, and for absence of material to indicate their involvement in assaulting deceased, it is a fit case to protect liberty of the applicants. There are no criminal antecedents of the applicants. They are not likely to flee from justice. Hence, their custodial interrogation is not necessary. In view of this, application is allowed in terms of the interim order.

(R. M. JOSHI)
Judge

dyb