



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO.1703 OF 2023
WITH APPLN/3813/2023 IN ABA/1703/2023

1. Dwarka w/o Sopan Dhakane
2. Sopan s/o Gopinath Dhakane

... APPLICANTS

VERSUS

The State of Maharashtra

... RESPONDENT

Mr. V. R. Dhorde, Advocate for the applicants
Mr. N. B. Patil, APP for the respondent/State
Mr. S. J. Salunke, Advocate for the informant

CORAM : R. M. JOSHI, J.

DATE : 7th DECEMBER, 2023

P.C. :-

1. Applicants apprehend arrest in connection with Crime No. 153/2023 registered with Parli City Police Station, Dist. Beed for the offences punishable under Sections 498-A, 306, 340-B and 34 of IPC.

2. First informant is mother of the deceased who was married to the son of present applicants on 2/12/2022. It is claimed by the informant that for first three months deceased was treated well, however thereafter she was harassed by accused. There is allegation that in the month of April the in-laws of deceased started demanding Rs.20 lakhs towards marriage expenses from parents of deceased through her. They drove her out of house and after there was settlement with the intervention of the relatives she resumed cohabitation at the matrimonial home in the

month of May. On 5th August, 2023 deceased gave a phone call to the informant stating that she being harassed by the in-laws. Informant told her to come to her place however, at around 3.30 pm it was informed to the informant by the applicant No.1 that the deceased has committed suicide.

3. Learned counsel for the applicant submits that now charge-sheet has been filed and perusal of the charge-sheet indicates that there is inconsistency in the statement of the informant in the first information report and her supplementary statement, so also statement of the son of the informant. It is submitted that co-accused against whom similar allegations are made are granted anticipatory bail by the Addl. Sessions Judge. According to him now custodial interrogation of the applicants is not necessary.

4. Learned APP and learned counsel for the informant opposed the application essentially on the ground that within eight months of the marriage deceased committed suicide and hence offence under Section 304-B of IPC is committed by applicants. It is specific submission by the learned counsel for the informant that merely because there is inconsistency in statements of the informant in the first information report and subsequent statement it should be seen that the report is lodged on the date of the incident itself and hence owing to the mental state of the informant there is every possibility of she missing some vital

facts at the time of filing report. It is submitted that in the supplementary statement allegations made by her gets support from statement of her son. It is submitted that merely because charge-sheet is filed and nothing is to be recovered at the instance of the applicants, they are not entitled for anticipatory bail. He placed reliance on the judgment of Hon'ble Apex Court in case of Vipan ***Kumar Dhir Vs. State of Punjab and another in Criminal Appeal Nos. 1162 of 2021.***

5. Perusal of the first information report does not show that any money was paid by the informant during the marriage of her daughter. The allegations against all accused persons is that from April, 2023 they started demanding Rs.20 lakhs towards the expenses of the marriage. There is no specific allegation as to the nature of harassment caused to the deceased by them. Though it is sought to be contended by the learned counsel for the informant that the driving away of deceased from the matrimonial home also could be a reason for commission of suicide by her, however, the first information report itself clearly shows that in the month of May after the intervention of the relatives deceased had resumed cohabitation. There is common allegations against all the accused but the Sessions Court has found that there is no substance in the allegation against the brother in law of the deceased as he was not residing together with the deceased and other accused person. Thus, prima facie doubt is created about its veracity. Here in this case *prima*

facie there are inconsistencies in the statement of the informant and the subsequent statement recorded as well as the statement of son of the informant. Unlike in the case of **Vipan Kumar Dhir** (cited supra) there are no different allegations made against the accused person. The Hon'ble Apex Court by taking into consideration the said fact as held that it was improper part of of the High Court to apply parity and to grant relief to the co-accused.

6. In the instant case though it is a case wherein the deceased has died within a period of eight months of her marriage, having regard to the material inconsistencies in the first information report as well as the statements of witnesses recorded later on so also in view of the fact that the competent court of law has prima facie not considered the allegations against co-accused to be believable, this Court is of the view that it is a fit case for grant of anticipatory bail. It is settled law the accused cannot be sent behind the bar byway of pre trial sentence. It is pertinent to note that all the applicants are aged about 65 and 70 years old respectively. Having regard to their age also application stands allowed.

Pending application, if any, stands disposed of.

(R. M. JOSHI, J.)

ssp