

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

**BAIL APPLICATION NO.1897 OF 2023
WITH APPLN/4026/2023**

1. Nikesh s/o Ashok Ghanghav
2. Vicky s/o Ashok Ghanghav ...Applicants

VERSUS

The State of Maharashtra ...Respondent

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Mr. Babasaheb S. Bhale, Advocate for the applicants.

Mr. S.P. Tiwari, APP for the respondent-State.

Ms. Pooja H. Tayde, Advocate for Assist to P.P.

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CORAM : S.G. MEHARE, J.

DATED : NOVEMBER 03, 2023

PER COURT:-

1. Heard learned counsel for the applicant, learned APP for the State and learned counsel for the first informant.
2. The applicants are seeking bail in Crime No.112 of 2023 registered with Osmanpura Police Station, District Aurangabad for the offence punishable under Sections 304-B, 498-A r/w 34 of Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act.
3. Applicant no.1 is the husband and applicant no.2 is the brother-in-law of the deceased. The facts in brief were that the deceased and applicant no.1 married on 06.06.2022. They have blessed with a child. However, on 05.06.2023, the deceased hanged herself in the house. It has been alleged that after 15 days of her

marriage, the parents had paid Rs.50,000/- to the applicants for her medical treatment. The accused were demanding Rs.1 lac for construction of the house. Hence, she hanged herself in the house.

4. Learned counsel for the applicants would submit that the allegations are false. Applicant had love marriage with the deceased. Therefore, her parents were unhappy. By passage of time, the relations were developed. She was never ill-treated. On the contrary, they have spent reasonable amount over her delivery at their home. They never demanded the money for construction of the house. The house where they were residing was in a good condition. The deceased committed suicide out of frustration. The applicants are languishing in jail for sufficient time. Nothing is to be recovered from them. There are no antecedents to their discredit. There was no dowry demand except the quarrels for trivial reasons. Hence, they may be granted bail.

5. Learned APP and learned counsel for the first informant have strongly opposed the application. They would argue that a strong presumption of commission of the offence is against the applicants. They did not satisfactorily explain. A lady has no reason to commit suicide within a year of her marriage unless she was harassed and treated cruelly. The parents had no reason to lie. The allegations of dowry demand are true and correct. The applicants have a open plot at another place. They wanted to raise the

construction there. Hence, they were asking the deceased to bring Rs.1 lac from her parents. A neighbour lady is a witness, who is residing to the backside of the house of the applicants. She has categorically stated that she used to hear the abuses from their house. The circumstances are sufficient to believe that a serious offence of dowry death has been committed. Learned counsel for the victim has pointed out that an application for bail on parity was filed before the trial Court and it was withdrawn. These facts have not been disclosed in the application. Hence, suppressing the fact is the ground to refuse the bail. The application deserves to be dismissed.

6. Learned counsel for the applicants has submitted that as the Court was not inclined to grant parity, the said application was not pressed. It was not decided on merit. Thereafter, the learned Additional Sessions Judge refused the bail on 10.08.2023 and then the applicants are before the Court. There appears substance in such arguments.

7. Perused the papers. It seems from the record that there is nothing to believe at this juncture that after 15 days of the marriage, the deceased suffered a disease of such a nature that the parents had to spent Rs.50,000/-. Barely having a plot does not prove the nexus with the demand of dowry for construction of the house. The statement of the so-called neighbour is hearsay about the demand of dowry. The N.C. report lodged by the victim does not reflect that she

was beaten for demand of dowry. It was an incident happened when the husband denied the victim to go to her parents home with her child. Such trivial incidents normally happens in the class to which the applicants belong. Immediately after the incident, the present applicants took the victim to the hospital. This is a positive conduct on their part. Considering the material on record, the Court is of the view that it would not be justifiable to keep the applicants behind bar. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) The applicants, Nikesh s/o Ashok Ghanghav and Vicky s/o Ashok Ghanghav, be released on bail on executing P.B. and S.B. of Rs.50,000/- (Rupees fifty thousand) each with one solvent surety in the like amount in connection with the above crime, on the conditions that they shall not tamper with the prosecution witnesses.
- (iii) The applicants shall attend the trial on each and every date.
- (iv) Criminal Application No.4026 of 2023 is disposed of.

(S.G. MEHARE, J.)