

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
BAIL APPLICATION NO.1852 OF 2023**

1. Balu S/o Kerba Darewad,
Age 60 years, Occu. Labour.
2. Jijabai W/o Balu Darewad,
Age 57 years, Occ.: Labour.
3. Avdhut S/o Balu Darewad,
Age 25 years, Occu. Labour.

All R/o Ekamba, Tq. Himayatnagar,
Dist. Nanded.

..Applicants

Versus

The State of Maharashtra,
Through Police Inspector,
Police Station, Himayatnagar,
Tq. Himayatnagar, Dist. Nanded.

..Respondent

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Mr. Shrikant G. Kawade, Advocate for the Applicants.
Mr. S. P. Deshmukh, APP for Respondents-State.

**WITH
CRIMINAL APPLICATION NO.3956 OF 2023
IN BA/1852/2023**

Vishwanath S/o Padam Chintalwad,
Age 46 years, Occ. Labour,
R/o. Rawangaon (Manala), Tq. Hadgaon,
Dist. Nanded.

..Applicant

Versus

1. Balu S/o Kerba Darewad,
Age 60 years, Occu. Labour.
2. Jijabai W/o Balu Darewad,
Age 57 years, Occ.: Labour.
3. Avdhut S/o Balu Darewad,
Age 25 years, Occu. Labour.

All R/o Ekamba, Tq. Himayatnagar,
Dist. Nanded.

4. The State of Maharashtra,
Through Police Inspector,
Police Station, Himayatnagar,
Tq. Himayatnagar, Dist. Nanded. ..Respondents

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Mr. A. B. Kharosekar, Advocate for the Applicant.

Mr. S. P. Deshmukh, APP for Respondents-State.

Mr. Shrikant G. Kawade, Advocate for Respondent Nos.1 to 3.

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CORAM : S. G. CHAPALGAONKAR, J.

DATED : 30th OCTOBER, 2023.

PER COURT:-

1. The applicants seek regular bail in connection with Crime No.197 of 2023 registered with Himayatnagar Police Station, District Nanded for the offences punishable under sections 304-B, 498-A r/w 34 of the Indian Penal Code.

2. The investigation was set in motion on the basis of the complaint given by Vishwanath S/o Padam Chintalwad, who alleges that his daughter (Kajal) had married with Ramprasad S/o Balu Darewad on 31.05.2019. Initially, she was treated well. However, later on in-laws started making demand of money and ill-treating her. It is further alleged that out of matrimonial relations, the deceased Kajal gave birth to daughter. Whenever Kajal had been to the maternal home and she complained about ill-treatment at the hands of her husband and other in-laws. It is further alleged that on 21.09.2023, the informant received a message that Kajal is serious and admitted at Vishnupuri Hospital at Nanded, informant rushed to the hospital where he saw that his daughter was serious and had ligature mark. The in-laws failed to explain the reasons of such injury. Subsequently, his daughter lost the life. Accordingly, he lodged report alleging that because of the demand of dowry and consequential ill-treatment, his daughter has strangulated herself. Accordingly,

Crime No.197/2023 came to be registered for the offences punishable under Sections 304-B, 498-A r/w 34 of the Indian Penal Code against in all four accused person including the applicants. They are arrested and behind the bar since 23.09.2023.

3. Mr. Kawade, learned Advocate appearing for the applicants would submit that the applicants are innocent persons. They have been falsely implicated in the aforesaid crime. The deceased committed suicide. Subsequently, false story is hatched to implicate all the family members. The applicant nos.1 and 2 are old aged persons. The applicant no.3 is unconcerned with the affairs between accused no.1 and his wife. He would, therefore, urge to enlarge the applicants on bail.

4. The learned APP appearing for the respondent-State as well as the learned Advocate appearing for the complainant vehemently oppose the prayer for grant of bail. They would submit that the deceased committed suicide within the period of seven years of marriage. The presumption under Section 113-B of the Indian Evidence Act is available regarding dowry death. The contents of the FIR would show that the deceased was ill-treated on account of demand of dowry. The specific instances are quoted in the complaint. Hence, they oppose the prayer for grant of bail.

5. Having considered the submissions advanced, apparently the marriage between the deceased and her husband Ramprasad was solemnized in the year 2019. Out of the matrimonial relations, she begotten a daughter. The allegations are made in the FIR regarding the demand of amount of Rs.1,50,000/- for establishment of the computer shop for the husband of the deceased. However, allegations against the

applicants are omnibus. The statements of the witnesses are stereotyped in nature. No specific instance of ill-treatment at the hands of the applicants is stated in the FIR. The applicants have been arrested on 23.09.2023. The investigation in the matter is practically over. Further detention of the applicants would not be necessary. Hence, case is made out for grant of bail. Hence, the following order:

ORDER

- (i) Bail Application is allowed.
- (ii) The applicants, Balu S/o Kerba Darewad, Jijabai W/o Balu Darewad and Avdhut S/o Balu Darewad, be released on bail in Crime No.197 of 2023 registered with Himayatnagar Police Station, District Nanded for the offences punishable under sections 304-B, 498-A r/w 34 of the Indian Penal Code on furnishing P.B. and S.B. of Rs.50,000/- (Rs.Fifty Thousand only) each on following condition:
 - a. The applicants shall not tamper with the prosecution evidence in any manner.
 - b. The applicant shall attend each and every effective date before the Trial Court.
 - c. The applicants shall visit the concerned police station once in a week i.e. on every Friday between 10.00 am to 02.00 pm till filing of the charge-sheet.
- (iii) Application is disposed of.
- (iv) In view of disposal of the Bail Application, the Criminal Application No.3956/2023 is also disposed of.

(S. G. CHAPALGAONKAR)
JUDGE