

VRJ

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.240 OF 2023

Dattatray Ajinath Dhavale & Anr.	... Applicants
V/s.	
The State of Maharashtra	... Respondent

Mr. Shailesh Kharat for the applicants.

Ms. Rutuja Ambekar, APP for the respondent/State.

CORAM : AMIT BORKAR, J.

DATED : JUNE 20, 2023

P.C.:

1. Apprehending arrest in connection with C.R. No.833 of 2022 for offence punishable under section 306 of the Indian Penal Code, 1860, the applicants are seeking pre-arrest bail under section 438 of the Criminal Procedure Code, 1973.

2. Based on report filed by the father of the deceased, it is alleged that marriage between the accused No.1 and deceased was performed on 17th April 2022. In the month of August 2022, deceased called the informant alleging that all accused were demanding golden ring and dowry. They were harassing the deceased. When the deceased came to informant's house for Diwali festival, she told the informant that the accused No.1 was demanding Fortuner Car to be as a dowry. Thereafter, she returned to her matrimonial home. On 7th December 2022, informant

received a call that her daughter committed suicide. Therefore, he lodged a report against all accused persons.

3. The applicants, therefore, applied for relief under section 438 of the Criminal Procedure Code, 1973, which has been rejected by Additional Sessions Judge by order dated 16th January 2023.

4. Learned advocate for the applicants submitted that the accused No.1 (husband) was arrested and released on regular bail. The allegations against the applicants are vague. No material is on record to show proximate incident.

5. Per contra, learned APP for the State submitted that the death had occurred within one year of marriage, hence, presumption under section 113 of the Evidence Act, 1872 is attracted. The investigation is in progress. Recovery of Cell Phone is not yet made and, therefore, custodial interrogation of the applicants is necessary.

6. On perusal of the report and material on record, it appears that the allegations against the applicants are vague. At this stage, the material on record prima facie do not indicate that the deceased left with no other option than to commit suicide. There is also no material at this stage to suggest the proximate cause for committing suicide. In the absence of material on record to show complicity of the applicants in the alleged crime, at this stage, the applicants are entitled to relief under section 438 of the Criminal Procedure Code, 1973. Hence, following order:

a) In the event of arrest of the applicants in connection

with C.R. No.833 of 2022 for offence punishable under section 306 of the Indian Penal Code, 1860, they shall be released on bail on furnishing PR Bond in the sum of Rs.50,000/ each along with one or two sureties in the like amount;

b) The applicants shall present before the investigating officer on 23rd, 24th and 26th June 2023 between 11:00 a.m. to 02:00 p.m. and, thereafter, as and when called by the investigating officer;

c) The applicants shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer;

d) The applicants shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police.

7. The anticipatory bail application stands disposed of in above terms.

(AMIT BORKAR, J.)