



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Criminal Application [ABA] No.528 of 2023

Sanket Rajesh Kambe and another

vs.

State of Maharashtra, through P.S.O., Police Station Murtizapur, District Akola

*Office notes, Office Memoranda of
 Coram, appearances, Court's orders
 or directions and Registrar's orders.*

Court's or Judge's Orders

*Mr. S.V. Sirpurkar, Advocate for the Applicants.
 Mr. V.A. Thakre, A.P.P. for Non-Applicant No.1/State.
 Ms. Sneha Dhote, Advocate for the Complainant.*

CORAM : M.W. CHANDWANI, J.
DATE : 5th OCTOBER, 2023.

The applicant has filed rejoinder, which is taken on record.

02] Apprehending arrest in connection with Crime No.219/2023, registered with Police Station Murtizapur, District Akola, for the offences punishable under Sections 306, 498-A and 304-B read with Section 34 of the Indian Penal Code, the applicants have filed this application for anticipatory bail.

03] Heard the learned Counsel for the applicants as well as the learned A.P.P. for the State assisted by learned Counsel Ms. Sneha Dhote for the complainant.

04] Having gone through the case diary, it appears that on 20/06/2023, wife of applicant No.1 and daughter-in-law of applicant No.2 committed suicide by jumping in front of a running train. Initially, Accidental Death Report was registered under Section 174 of the Code of Criminal Procedure. Thereafter on 24/06/2023, Sanjay Fulchand Sharma, father of the deceased/victim, lodged complaint with the Police Station that the victim was subject to cruelty at the

hands of the applicants and their family members. They were constantly torturing and used to beat the deceased and had made her life miserably. During intermittent visits of the deceased to her parental house, she used to inform to her parents about the cruelty and harassment at the hands of the applicants and their family members. Therefore, initially an offence under Section 306 of I.P.C. came to be registered against the applicants and their family members. However, the case diary transpires that in the statement of the witnesses, the prosecution revealed that there was demand of money by the applicants. Therefore, offence under Section 304-B of I.P.C. came to be added.

05] The learned Counsel for the applicants submitted that the deceased committed suicide after she visited her parental house. When applicant No.1 inquired with the family members of the deceased about happening of the incident, F.I.R. against the applicants and their family members came to be lodged. It is contended that offence under Sections 306 and 304-B of I.P.C. will not attract. According to the learned Counsel for the applicants, there was no abetment at the hands of the applicants or their family members. He submits that in the F.I.R., there is no allegation of demand of dowry, therefore, offence under Section 304-B also does not attract. He further submits that the applicants were granted *ad interim* bail and as per the directions of the Court, they attended the concerned Police Station and co-operated with the investigation. According to him, since the investigation is almost completed, no purpose would be served by keeping the applicants behind the bars.

06] *Per contra*, the learned A.P.P. assisted by the learned Counsel for the complainant submits that the case diary, particularly the statement of mother of the deceased and other witnesses, reveals

that there was demand of money and continuous harassment to the deceased at the hands of the applicants. Applicant No.1 is in habit to consume liquor and used to beat the deceased mercilessly. Since, the deceased was fed up with the harassment, she committed suicide. It is also stated that applicant No.1 had antecedent, which has not been mentioned in the application. Considering the sum and substance of the argument of the learned A.P.P., no case is made out for anticipatory bail.

07] It transpires from the case diary that on 20/06/2023, the deceased had visited the house of her parental house at 10:00 a.m., and at 12:00 p.m., the complainant was informed that the dead body of her daughter was lying on the railway track. Perusal of the F.I.R. though reveals that the marriage of the deceased with applicant No.1 was performed on 16/02/2018 and initially the deceased lived happy married life, thereafter the applicants and their family members started harassing the deceased on small issues. The statement of mother of the deceased and other witnesses show that applicant No.1 used to beat the deceased mercilessly under the influence of liquor. The statement of mother also reveals that applicant No.1 was demanding Rs.6.00 lakhs, as he had sustained loss in share market.

08] No doubt, the death occurred within seven years of the marriage, but there is no allegation against applicant No.2 regarding demand of dowry. Applicant No.2 is a women aged about 56 years old. Considering the nature of allegations against applicant No.2, a case is made out for anticipatory bail.

09] So far as applicant No.1 is concerned, there are statements of witnesses that the applicant No.1 used to harass the deceased and

even he was forcing the deceased to make a demand of Rs.6.00 lakhs to her parents. Considering the material against applicant No.1, I am not inclined to exercise the discretion of bail in his favour. In the result, the following order is passed :

ORDER

- I. Application of applicant No.1 is rejected and the order granting *ad interim* relief to applicant No.1 on 03/08/2023 stands vacated.
- II. Application of applicant No.2 is allowed and the order granting *ad interim* relief to applicant No.2 on 03/08/2023 is hereby confirmed.
- III. Applicant No.2 shall attend the concerned Police Station as and when directed by the Investigating Officer and shall co-operate in the investigation.
- IV. The application is partly allowed and disposed of accordingly.

At this stage, the learned Counsel for the applicants submitted that, applicant No.1 was protected by way of an *interim order*, therefore, the said interim order be continued for a further period of two weeks. The learned A.P.P. assisted by the learned Counsel for the complainant, vehemently opposes the said request.

Considering the findings given against applicant No.1, the request of the learned Counsel is refused.

JUDGE