



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 281 OF 2024

Chandrabhaga Dattatray Patil And AnotherApplicants

VERSUS

The State Of Maharashtra And AnotherRespondents

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Mr. N.N. Desale, Advocate for Applicants

Mr. A.R. Kale, APP for Respondents

Ms. Megha Mali h/f Mr. V.S. Patil, Advocate for informant

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 19th APRIL, 2024

ORDER :

1. Applicants apprehend arrest in C.R. No. 5 of 2024, registered with Marwad Police Station, Dist. Jalgaon, for offences punishable under sections 306, 323, 504, 506 r/w 34 of the Indian Penal Code.

2. FIR is lodged by Hitendra Walmik Nikam alleging that marriage of his sister Ashwini was solemnized with Arun Patil, resident of village Mandal, Taluka- Amalner in the year 2009. One son and one daughter were begotten from wedlock. Brother in-law Arun expired in the year 2018, due to ailment. Thereafter, Ashwini was working as Asha worker at village

Bhagyawant Punde

Mandal. She was staying with son Mohit and father-in-law Prakash Patil. Cousin brother-in-law of Ashwini namely Vilas alias Vithoba Patil was staying with his wife in Ashwini's lane. His father Dattatraya Patil and mother Chandrabhaga Patil are also staying separately in the same lane. On 12.01.2024, Ashwini called him and told him that Vithoba came to her house in the night and told her that he is having acidity and to give tablet. She therefore took him inside the house and closed the door. At that time, Vithoba's wife Kirti (applicant No. 2) came there and knocked the door and started alleging that Ashwini has illicit relations with Vithoba. Ashwini denied it, however, Kirti and her mother-in-law created a scene in the lane and quarreled with Ashwini. Then they went home. On 13.01.2024, informant again called Ashwini and she told him that on 12.01.2024, she was called at the house of Dattatraya Patil at that time, his wife Chandrabhaga Patil (applicant No. 1) was present there. When Ashwini went to his house, Vithoba, Kirti followed her. Vithoba, Kirti, Dattatraya and Chandrabhaga all suspected her character. Therefore, throughout the night she was thinking. Informant asked Ashwini whether he should come to fetch her. She refused the same. On 13.01.2024, he received a message that some burning incident had happened at the house of Ashwini. He

therefore rushed to Dhule where Ashwini was admitted. At 4.00 pm, she disclosed him that since all the accused persons suspected her character and abused her and slapped her she has set herself ablaze. She has also written a suicide note. Ashwini succumbed to the burn injuries on 16.01.2024.

3. Heard learned advocate for applicant and learned APP for State. Perused the investigation papers.

4. Though, names of applicants are mentioned in the suicide note and dying declaration of deceased Ashwini, considering the gender of applicants and allegations made against them and the fact that investigation is on the verge of completion, pre-trial custodial detention of applicants is not necessary. Even otherwise, this Court is of the *prima facie* view that ingredients of section 107 of IPC are not made out and hence it is doubtful whether section 306 of IPC would be applicable to the facts of the present case. In that view of the matter, application is allowed by confirming interim protection granted to applicants by order dated 28th February, 2024.

5. Till filing of charge sheet, applicants shall attend the concerned police station as and when called by investigating

officer and shall co-operate in the investigation. Applicants shall not tamper the prosecution evidence.

[NITIN B. SURYAWANSHI, J.]