



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1158 OF 2024

Jilani Jyani Shaikh

VERSUS

The State Of Maharashtra And Another

WITH

ANTICIPATORY BAIL APPLICATION NO. 1074 OF 2024

Saida Jilani Shaikh

VERSUS

The State Of Maharashtra And Another

- Mr. S. K. Chavan, Advocate for the Applicants
- Ms. D. S. Jape, APP for the Respondent/State
- Mr. S. S. Shaikh, Advocate for the Respondent Nos.3 to 5

CORAM : R.M. JOSHI, J

DATE : SEPTEMBER 30, 2024

COMMON ORDER :

1. Applicants apprehend arrest in connection with with C.R. No. 375 of 2024 registered with MIDC Waluj Police Station, Dist. Chhatrapati Sambhajinagar for the offences punishable under Sections 304-B, 306 read with Section 34 of the Indian Penal Code.

2. Applicants are in-laws of unfortunate deceased Mahevim Shaikh who committed suicide within one month of her marriage. FIR lodged by her paternal uncle

indicates that she was having an affair with son of the present Applicants. Her marriage was fixed earlier, however, she eloped with him. Thereafter, she insisted for the marriage with Musa i.e., son of the Applicant. Against the wish of the relative, her marriage was performed with Musa on 11.03.2024. It is stated in the FIR that the real brother of the deceased, who used to visit her place, at that time she had informed him about harassment caused by her husband and in-laws for bringing money from parents. It is alleged therein that they caused harassment to her for demand of dowry. On 21.04.2024, it was informed to them by the in-laws of the deceased that deceased had died. It is alleged that father-in-law of deceased i.e., one of the Applicant did not inform about the same to the informant and went away. On these allegations, offence came to be registered under Sections 304-B, 306 read with Section 34 of the IPC.

3. Learned Counsel for the Applicants submits that the investigation is practically completed and charge-sheet is filed against their son. By referring to the charge-sheet & statement of Abu i.e., brother of

deceased it is pointed out that he does not claim he being informed by the deceased about any harassment being caused to her by the present Applicants for demand of dowry. It is his submission that the statement of her mother also indicates that she was not in talking terms with the deceased after her marriage. He has also pointed out the statement of the neighbour who does not whisper about any harassment being caused to deceased by Applicants.

4. Learned APP and learned Counsel for Informant opposed the applications essentially on the ground of seriousness of the crime. It is their contention that within a month of marriage deceased had died and this is not a fit case to grant any relief. Learned Counsel for Informant has sought to make submission that in the statement of Abu it is mentioned that after marriage deceased was not happy. Thus, it is his submission that this should be treated as harassment being caused by the present Applicants and therefore, she was not happy.

5. No doubt, seriousness of crime is one of the criteria to be considered for the purpose of grant or

refusal of anticipatory bail. However, if there is no *prima facie* evidence to show involvement of the Applicants in the crime, the Court is not justified in refusing the anticipatory bail.

6. Though, FIR lodged by the paternal uncle of the deceased indicates that real brother of the deceased i.e., Abu used to visit her maternal home and that she used to complain him about harassment being caused by the husband and in-laws for dowry. However, said Abu in his statement recorded under Section 161 CrPC does not whisper any such harassment being narrated to him by the deceased. Against this, what he says is that she was not happy. Thus, this Court finds it difficult to accept the contention of learned Counsel for Informant that the said statement needs to be read as if she was not happy due to harassment caused by the in-laws. Pertinently, there is statement recorded of neighbour during the course of investigation who also does not say anything about harassment being caused by the Applicants to deceased.

7. As against this, it is pertinent to note that deceased had broken her marriage and eloped with the

son of the Applicants against the wish of her family members. There is allegation against the Applicants that father-in-law of deceased without intimating the relatives of the deceased left the hospital. In this regard, statement of Dr. Patil needs to be considered. It is specifically stated therein that the Applicants had taken deceased to three hospitals in order to save her life, which is corroborated by the statement of neighbour Patil.

8. All these facts clearly indicates that there is nothing on record at least at this stage to draw an inference that the Applicants caused harassment to deceased and because of the same, she has committed suicide. Hence, it is a fit case to grant anticipatory bail. Hence, the order:

O R D E R

- (i) Anticipatory Bail Applications are allowed. Interim order dated 03.07.2024 passed in ABA No. 1074 of 2024 stands confirmed.
- (ii) In the event of arrest of the Applicant – Jilani Jyani Shaikh in ABA No. 1158 OF 2024 in connection with C.R. No. 375 of 2024 registered with MIDC Waluj Police Station, Dist. Chhatrapati Sambhajinagar for the offences punishable under Sections 304-B, 306

read with Section 34 of the Indian Penal Code, Applicant shall be released on bail on furnishing PR bond of Rs. 20,000 (Rupees Twenty Thousand Only) with one surety in the like amount.

- (iii) Applicant shall attend the concerned police station as and when required.
- (iv) Applicant shall not contact the witnesses directly or indirectly.
- (v) Applicant shall not interfere with the evidence in any manner whatsoever.
- (vi) Applicant is further directed to cooperate the investigating agency for further investigation.

(R.M. JOSHI, J.)