

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

ANTICIPATORY BAIL APPLICATION NO.612 OF 2024

Ashutosh Santosh Patil

.... Applicant

versus

The State of Maharashtra

.... Respondent

.....

- Mr. Satyavrat Joshi i/b. Yash Ganesh Fadtare, Advocate for Applicant.
- Mr. C. D. Mali, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 05th MARCH, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.13/2024, dated 10/01/2024, registered with Vashi Police Station, Navi Mumbai, under sections 498-A, 306 of the Indian Penal Code.

2. Heard Mr. Satyavrat Joshi, learned counsel for the Applicant and Mr. C. D. Mali, learned APP for the State.

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3. The FIR is lodged by the father of the deceased Bhavika. The informant was Baban Patil. He has stated that Bhavika got married to Pritam Sutar in November 2022. The present Applicant is Pritam's friend. After the initial first few days, the husband Pritam and the mother-in-law Asha started harassing the deceased. They used to suspect her character. The husband demanded Rs.50,000/- and Rs.1 lakhs at different times from the informant. The informant paid Rs.50,000/- but he could not arrange for Rs.1 lakh. Therefore, Bhavika's husband was not talking with the informant.
4. In October 2023, the husband and the mother-in-law had assaulted her. They were raising suspicion against her character. Bhavika's brother Dishant brought her to her parent's house. For about two months she stayed with her parents. She was refusing to go back to her matrimonial house. But the informant convinced her to go to her matrimonial house.
5. On 31/12/2023 the informant's elder daughter had come to his house. At that time, Bhavika had also visited him.

She told them that the husband was still doubting her character and was harassing her. On 02/01/2024, she went back to her matrimonial house. On that day, again her husband and the mother-in-law assaulted her. They again raised suspicion about her character. It is specifically further mentioned in the FIR that Bhavika's husband's friend Ashutosh i.e. the present Applicant also joined him. The Applicant was also raising suspicion about her character and he was also assaulting her. On that day, Bhavika's husband, mother-in-law as well as the present Applicant assaulted Bhavika. At around 10.30 p.m. Bhavika called the informant and told him that all of them including the present Applicant had assaulted her. She pleaded with the informant to take her back to his house. The informant immediately sent his son and others to Bhavika's matrimonial house. It was seen that Bhavika was hardly able to walk as she was assaulted. There was injury to her head and there were signs of beating on her face and hands. Bhavika was taken to Nerul Police Station to lodge her FIR and then she was taken to Vashi NMMC hospital. She was treated there. Since then she was under pressure. She was referring to the ill-treatment caused by

her husband and the present Applicant. Finally, she committed suicide by hanging herself on 05/01/2024. On this basis, the FIR is lodged.

6. Learned counsel for the Applicant submitted that the Applicant was not related to Bhavika's husband. Therefore, offence u/s 498-A of IPC is not applicable. Bhavika had lodged a complaint on 02/01/2024 , which is mentioned in the FIR, but in that NC complaint at Nerul Police Station, she had not named the present Applicant and there were no allegations against him. The act attributed to the present Applicant will not amount to instigation or abetment to commit suicide. The mother-in-law of the deceased is granted anticipatory bail by the Sessions Court and therefore on parity, the Applicant deserves the same treatment.

7. Learned APP produced the investigation papers before me. He submitted that the deceased had sent a video recording of the present Applicant entering her house and hurling abuses. It was seen that he was about to assault her. She had also sent

some photographs showing her injuries. This video recording and the photographs were sent by Bhavika to her brother. He submitted that therefore the Applicant is not falsely implicated. There is definite material against him. He placed the investigation papers before me.

8. I have considered these submissions. Mr. Joshi is right in submitting that the Applicant cannot be said to have committed offence punishable u/s 498-A of IPC. However, his act as described in the FIR, would definitely attract section 107 r/w 306 of the IPC. There is a definite material against the present Applicant in the form of video recording, wherein he is seen entering the house to beat Bhavika and at the same time hurling abuses. This gives corroboration to the allegations in the FIR that the Applicant was also raising suspicion about her character and had taken part in beating the deceased. Though in the NC the Applicant's name is not mentioned; as it was lodged for a limited purpose for making grievance against the husband; but the Applicant's role is corroborated by the video recording. He had no business to say anything about her character and to

take part in beating. The photographs show that she had suffered injuries. The FIR mentions that Bhavika had called the informant at 10.30 p.m. on 02/01/2024 and had specifically named the present Applicant and had described the part played by him. The Applicant had assaulted her and was raising suspicion about the character. This amounts to oral dying declaration. Another witness Bharati Patil, her husband Bhau Patil, brother Dishant and his mother Vanita had gone to Bhavika's house. They had seen that Bhavika was assaulted. She had suffered injuries. There were signs of assault on her face and hands. At that time, again she had repeated the role played by her husband, mother-in-law as well as the present applicant. The statement of Dishant i.e. the brother of the deceased Bhavika also refers to the Applicant's role.

9. The Panchanama of WhatsApp messages showing participation of the Applicant was conducted on 22/01/2024. This is an important circumstance against the present Applicant. The reasons given by the learned Additional Sessions Judge, in granting relief to the mother-in-law did not take into account all

these facts. The post-mortem notes show that there was contusion over occipital region. This also shows that she was assaulted. Raising suspicion against her character and assaulting her, would be a proximate reason for the deceased to commit suicide and hence can be described as the act falling within the meaning of section 107 r/w 306 of the IPC.

10. This is a serious offence. The Applicant's role is mentioned in the FIR. It is corroborated by the other circumstances discussed above. Considering the gravity of the offence, he cannot be protected u/s 438 of Cr.P.C. The application is rejected.

(SARANG V. KOTWAL, J.)