

Sayali Upasani

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

ANTICIPATORY BAIL APPLICATION NO. 2352 OF 2023

Prakash Vasant Kerkar and Others ...Applicants

Vs.

The State of Maharashtra ...Respondent

**SAYALI
DEEPAK
UPASANI**

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Date: 2024.03.30
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Mr. Sandeep R. Waghmare, for Applicants.

Ms. Ranjana D. Humane, APP for State-Respondent.

Mr. Shirish G. Shigwan, for Intervener.

Mr. Sachin Tambe, PSI, MIDC Police Station, Present.

CORAM:- N. J. JAMADAR, J.

DATED:- 26th MARCH, 2024

PC:-

- 1) Heard the learned Counsel for the parties.
- 2) By an order dated 29th August, 2023, this Court was persuaded to grant interim bail to the applicants opining, inter alia, as under:-

“...10. The sister of the first informant died by suicide at her matrimonial home in the night intervening 26th and 27th June, 2023. The first informant initially lodged a report against the husband of the deceased with the allegations that Vasant had subjected the deceased to cruelty. Vasant used to harass the deceased; abuse, insult and also beat her. Vasant had addressed a notice of divorce to the deceased. Thus, unable to bear the physical and mental cruelty, the deceased died by suicide.

11. It appears that, subsequently, the applicants were also implicated with the allegations that the applicants also subjected the deceased to cruelty in order to coerce her to meet unlawful demands. Thereupon the charge under Section 304B of the Penal Code came to be added.

12. The learned Counsel for the applicants submitted that in the FIR no allegations as such, were made against the applicants. Inviting the attention of the Court to the statements of the witnesses recorded during the course of the investigation especially that of the mother of the deceased and the first informant, which are annexed to the charge-sheet filed against accused No.1 Vasant, the learned Counsel for the applicants submitted that the immediate family members of the deceased had attributed no role to the applicants. By way of afterthought, the applicants have been falsely roped in.

13. In opposition to this the learned APP invited the attention of the Court to a complaint, which was lodged by the deceased making allegations against the husband and in-laws.

14. I have perused the said complaint (Exhibit-C to the application). The deceased has referred to the alleged demands collectively. The situation which thus obtains is that immediately after the occurrence, the statements of the brother and the mother of the deceased were recorded. In those statements, which have the element of spontaneity, no allegations have been made against the applicants...”

3) The applicants have appeared before the Investigating Officer. Investigation seems to be complete. Charge-sheet has been lodged.

4) By a separate order passed today in BA No. 3541 of 2023, Vasant Kerkar, the son of applicant Nos. 1 and 2 and brother of applicant No. 3, has been granted regular bail.

5) Having regard to the nature of accusation qua the applicants and the developments in the intervening period, custodial interrogation of the applicants does not seem warranted.

6) I am, therefore, persuaded to make the order of interim bail absolute while directing the applicants to appear before the Investigating Officer.

7) Hence, the following order.

ORDER

i) The order of Interim Bail dated 29th August, 2023 is made absolute on the terms and conditions incorporated therein.

ii) The applicant shall henceforth appear before the Investigating Officer as and when directed.

iii) The applicant shall regularly attend the proceedings before the jurisdictional Court.

iv) The application stands disposed.

[N. J. JAMADAR, J.]