



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

CRIMINAL APPLICATION (ABA) NO. 206 OF 2024

Sudhakar s/o Ganpat Umbarkar and another V/s State of Maharashtra

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. A.K.Bhangde, counsel for the applicants.

Mr. U.R. Phasate, APP for the non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 25/04/2024.

1. Apprehending the arrest at the hands of Police, in connection with crime No. 34/2024 registered with Police Station Sonegaon, Nagpur City, District Nagpur for the offence punishable under Sections 304-B, 306, 498-A, 504 read with Section 34 of the Indian Penal Code, 1860, the applicants approached this Court for grant of pre-arrest bail.

2. The crime is registered on the basis of report lodged by Kunal Manoj Atkar who is the brother of the deceased. As per the allegation, the marriage of the deceased was performed with the co-accused Nilesh Umbarkar on 21/02/2019, who is his sister. After marriage, she was treated well for one and half year. Thereafter, her husband addicted to bad vices and under the influence of liquor, he used to harass her by saying that he disliked her, as his marriage was performed with her against his desire. It is further alleged that she had given birth to a female child and on that count, present applicants as well as the other co-accused used to

harass her, as to why she had given birth to a female child and not to a male child. It is further alleged that, even if she is sick, she was insisted to do the domestic work. She was not taken in the hospital, and as she fed-up with the ill-treatments at the hands of the present applicants and other co-accused, she committed suicide. On the basis of said report, the police have registered the crime against the present applicants.

3. Learned counsel for the applicants submitted that both the applicants are old age persons, and they were not residing along with the deceased and her husband. Therefore, the harassment at the hands of the present applicants does not arise. He further submitted that in the suicide note, there is no allegation against the present applicants, therefore, their custodial interrogation is not required. As the deceased was suffering from various ailments, she was fed-up with ill-treatment and therefore, she committed suicide. He submitted that the applicants have filed an affidavit to that extent.

4. Learned Additional Public Prosecutor strongly opposed the said application on the ground that prior to the incident, the victim had called her friends and disclosed about her ill-treatment. The statement of her friend was recorded by the investigating agency. It is supported by the C.D.R. Report. The CDR report shows that duration of the call between the deceased and her friend was 2534 seconds. Prior to the incident, she was called by the applicant Nos. 1 and 2 also. He submitted that the suicidal note shows the extent of the harassment, which she has suffered, as she fed-up with the

harassment and therefore, she committed suicide. Considering the prima-facie case against the present applicants, the bail application deserves to be rejected.

5. Having heard learned counsel for the applicants and learned APP for the State, perused the investigation papers. The FIR is lodged by the brother of the deceased which shows that within seven years of marriage, the death of the deceased is caused. As per the allegation, she was ill-treated on various counts including the unlawful demand at the hands of the present applicants and other co-accused. During the investigation, the investigating officer has seized suicide note, which shows that she has written in the suicide note that she was facing ill-treatment at the hands of the present applicants and therefore, she was committing suicide. Prior to committing of suicide, she made a phone call to her friend namely Manjusha Suresh Rathod. This fact is substantiated by the CDR report, which shows that the call of the duration was long, and during that call, she expressed her anguish regarding the ill-treatment at the hands of the present applicants as well as other co-accused.

6. Thus, considering the prima-facie case made out against the present applicants, and considering the fact that the deceased has committed suicide within seven years of marriage, as she fed-up with ill-treatment at the hands of the present applicants, the application deserves to be rejected. Moreover, considerations for grant of bail under Sections 439 and Sections 438 are different. While considering the bail

application for pre-arrest bail, the Court has to consider the gravity of the offence, the punishment which is provided for the alleged offence, the apprehension of fleeing away from justice, and cooperation by the applicants during the investigation.

7. Here in the present case, the deceased has committed suicide within seven years of marriage, and her death is caused by suspicious circumstances, and there is an allegation that she was not only ill-treated for domestic reasons but for the unlawful demand. The statement of the friends of the deceased sufficiently shows that though the present applicants are residing at different places and the deceased was residing along with her husband, but she specifically disclosed that they used to come at Nagpur and used to instigate her husband and therefore, her husband was ill-treating. Thus, at this stage, a prima-facie case is made out against the present applicants. In view of that, application deserves to be rejected. Accordingly, I proceed to pass the following order;

The criminal application is **rejected**.

[URMILA JOSHI-PHALKE, J.]