



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

CRIMINAL APPLICATION (ABA) NO.353 OF 2024

Pramod s/o Vitthal Burkale and others

Vs.

The State of Maharashtra, Through Police Station Officer, Police Station
Jalgaon Jamod, District Buldhana

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. N. R. Bhishikar, Advocate for applicant.

Mr. Trupti Udeshi, APP for respondent/State.

Mr. Abhishak Bhuibhar, Advocate h/f Mr. A. M. Tirukh, Advocate for assist
to prosecution.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 13/06/2024

1. Apprehending the arrest at the hands of police in connection with Crime No.249/2024 registered with Police Station Jalgaon (Jamod), District Buldhana for the offences punishable under Sections 306 and 498-A read with Section 34 of the Indian Penal Code, the applicants approached to this Court for grant of pre-arrest bail.

2. The accusation against the present applicants is on the basis of report lodged by Subhash Vasantrao Waghmare who is the brother of the deceased alleging that his younger sister Geeta married with co-accused Pravin Burkale on 18/01/2010. From the said wedlock she was having one son and one daughter. After marriage, the co-accused i.e. her husband addicted to the bad vices

i.e. consuming of liquor and he used to assault her as well as ill-treating her by physically as well as mentally. Applicant No.1 in the application is her brother-in-law. As per the allegation, he used to instigate her husband to ill-treat her and on his instigation the co-accused was ill-treating her. It is further alleged that applicant No.2 and 3 who are nearest relatives of her husband were also instigating her husband to ill-treat her and therefore, she committed suicide as she fed up with the said ill-treatment at the hands of the present applicants.

3. Learned Counsel for the applicants submitted that as far as applicant No.1 in the present application is concerned, he is residing at Amravati. There is no material to show that he was instigating the co-accused for ill-treating the deceased. It is the dispute between the husband and wife and the applicants are not at all concerned with the same. He further submitted that as far as the custodial interrogation is concerned, is not required. Now co-accused – husband is also released on bail, in view of that, the applicants be released on bail. He further submitted that there are general allegations against all the present applicants.

4. Learned APP strongly opposed the application on the ground that the deceased has committed suicide due to the ill-treatment at the hands of the present applicants, their custodial

interrogation is required, as the allegations against all the applicants is that on their instigation the co-accused was ill-treating the deceased and deceased committed suicide and she prays for rejection of the application.

5. After hearing the learned Counsel for the applicant and learned APP for the State and on perusal of the recitals of the First Informant Report as well as the investigation papers, it reveals, it is alleged by the informant in the First Information Report that applicant No.1 who is the brother-in-law was making telephonic calls and instigating his brother to ill-treat the deceased. As far as this allegation is concerned during investigation, till now no material is collected by the investigating agency to show that there was consistent telephonic communication between the applicant No.1 and co-accused i.e. husband of the deceased. During the investigation, the Investigating Officer has seized the suicide note, wherein also there is no whisper that it was the present applicant No.1 who was ill-treating her and therefore, she is committing suicide. The statement of the son of the deceased was recorded under Section 164 of the Code of Criminal Procedure from which it reveals that on the day of incident there was quarrel between his parents and therefore, his mother committed suicide. The statement of the informant was also recorded under Section 164 of the Code of Criminal Procedure, wherein also he has

made a general allegation against the applicant No.1 as well as the other accused persons. The applicants are facing the prosecution on the ground that they were ill-treating the deceased and therefore, she committed suicide. Section 306 of the Indian Penal Code has been analyzed time and again by the Hon'ble Apex Court. The Hon'ble Apex Court in the case of **Shabbir Hussain vs. The State of Madhya Pradesh and others** reported in **(2021) 17 SCC 807** wherein it is held that in order to bring a case within the provision of Section 306 IPC, there must be a case of suicide and in the commission of the said offence, the person who is said to have abetted the commission of suicide must have played an active role by an act of instigating or by doing a certain act to facilitate the commission of suicide. The Hon'ble Apex Court further observes that mere harassment without any positive action on the part of the accused proximate to the time of occurrence which led to the suicide would not amount to an offence under Section 306 IPC.

6. In view of the above observations, if the facts of the present case is taken into consideration, general allegations are made against the present applicants. Where there was an instigation or not is a matter of evidence. At this stage, considering the fact that the co-accused – husband is already released on bail. There is no material to show the telephonic communication between the present applicants and

other co-accused. The custodial interrogation of the present applicants is not required as nothing is to be recovered from them. As far as the interrogation part is concerned, which can be taken care of by imposing certain conditions. Accordingly, I proceed to pass following order:

(i) The application is allowed.

(ii) In the event of arrest, applicant **No.(1) Pramod s/o Vitthal Burkale, No.(2) Archana w/o Gopal Metkar** and **No.(3) Gopal s/o Laxman Metkar** shall be released on anticipatory bail in connection with Crime No.249/2024 registered with Police Station Jalgaon (Jamod), District Buldhana for the offences punishable under Sections 306 and 498-A read with Section 34 of the Indian Penal Code, on executing PR bond in the sum of Rs.25,000/- each with one solvent surety each in the like amount.

(iii) The applicants shall attend the concerned Police Station as and when required for the investigation purpose and shall cooperate with the investigating agency.

(iv) The applicants shall not directly or indirectly make any inducement and threat or promise to any person acquainted with the facts of the present case.

7. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)