



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

CRIMINAL APPLICATION (ABA) NO. 699 OF 2024

Ashiyana Chhaware Sheikh @ Ashiyana Jabbar Sheikh @ Shete and another
V/s
State of Maharashtra

WITH

CRIMINAL APPLICATION (ABA) NO. 701 OF 2024

Jabbar s/o Gulab Sheikh 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. R.M. Daga, counsel for the applicants

Mr. H.D. Dubey, APP for non-applicant/State. (ABA No. 699/2024).

Mr. R.M. Daga, counsel for the applicant.

Mr. Nitin Autkar, APP for non-applicant/State. (ABA No. 701/2024).

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 21/10/2024.

1. Both the applications are filed by the applicants for grant of pre-arrest bail at the hands of police in connection with Crime No.332/2024 registered with Police Station Hingna, Nagpur city for the offences punishable under Sections 108, 80, 85 and 3(5) of the Bharatiya Nyaya Sanhita, 2023, the applicants who are the sister-in-law, brother-in-law and father-in-law of the deceased approached this Court for grant of pre-arrest bail.

2. The crime is registered on the basis of report lodged by Sheikh Maqsood Sheikh Habib Mansoori on an allegation that the marriage of his daughter Salina was performed with the co-accused Shadab Sheikh and his daughter resumed

cohabitation at the house of the present applicants, who were residing jointly. It is alleged that the applicants have started ill-treated the deceased after six months of marriage on account of that they are not treated well in the marriage and they should gift the vehicle or she should bring the amount from her parents. On 21/07/2024 at about 2.00 PM there was a quarrel between her and mother-in-law and mother-in-law abetted her by saying that she should die taking a poison, and therefore, she consumed the poison and succumbed to the death. On the basis of the said report, police have registered the crime against the present applicants.

3. Learned counsel for the applicants submitted that from the recitals of the FIR, general allegations are made against the present applicants who are sister-in-law, brother-in-law and father-in-law of the deceased. He submitted that as far as their custodial interrogation is concerned, which is not required. In fact, the offence of abetment is not made out against them. He invited my attention towards the recitals of the FIR and submitted that general allegations are made against them. In view of that, they can be protected by granting anticipatory bail.

4. Mr. H.D. Dubey, learned APP and Mr. Nitin Autkar, learned APP strongly opposed the said application on the ground that there is specific allegations against the present applicants, who are the in-laws of the deceased and the circumstances are created like that there was no other

alternative for her but to commit suicide and thereby she committed suicide, which covers the definition under Section 108 of the BNS, 2023. He submitted that considering the role attributed to the present applicants, their custodial interrogation is required.

5. Learned APP invited my attention towards the various statements of the witnesses and submitted that prima-facie is made against the present applicants. The CDR Reports are also collected. In view of that, the application deserves to be rejected.

6. After hearing learned counsel for both the parties. Perused the recitals of the FIR, from which it reveals that the general allegations are made against the present applicants. As far as the husband and the mother-in-law of the deceased is concerned, there is a specific allegations against them.

7. Section 108 of the Bharatiya Nyaya Sanhita, 2023 (Section 306 of the Indian Penal Code, 1860) has been time and again by the Hon'ble Apex Court in the case of ***Shabbir Hussain vs. The State of Madhya Pradesh (2021) 17 SCC 807*** has observed that 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 Supreme Court further goes on to observe 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 108 of the BNS, 2023 (Section 306 of IPC).

8. In view of the above observation of the Hon'ble Apex Court if the recitals of the FIR are considered, general allegations are made against the present applicants who are the in-laws of the deceased. In view of that, applications deserves to be allowed. Accordingly, I proceed to pass the following order:

- a] The criminal applications are allowed.
- b] The applicants (1) Ashiyana Chhaware Sheikh @ Ashiyana Jabbar Sheikh @ Shete (2) Shoel @ Soyal Jabbar in criminal application (ABA) No. 699/2024 and applicant in Criminal Application (ABA) No. 701/2024 namely Jabbar s/o Gulab Sheikh shall be released on anticipatory bail, in connection with Crime No.332/2024 registered with Police Station Hingna, Nagpur City for the offences punishable under Sections 108, 80, 85 and 3(5) of the Bharatiya Nyaya Sanhita, 2023, be released on ad-interim anticipatory bail on executing a PR.Bond in the sum of Rs.25,000/- each with one solvent surety each, in the like amount.
- c] The applicants shall attend the concerned police station as and when required for the

investigation purpose and shall cooperate with the investigating agency.

- d] 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.

The criminal applications are disposed of.

[URMILA JOSHI-PHALKE, J.]