



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

CRIMINAL APPLICATION (ABA) NO. 737 OF 2024

Mrs. Lakhbir Kaur w/o Kulbinder Singh Virk Vs 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. M.V. Arya, counsel for the applicant.

Ms. T.H. Udeshi, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 24/10/2024.

1. Apprehending the arrest at the hands of police in connection with Crime No.256/2024 registered with Police Station Kapil Nagar, Nagpur for the offence punishable under Sections 302 and 109 of Indian Penal Code, 1860.

2. The applicant is apprehending arrest at the hands of police as crime is registered on the basis of a report lodged by the brother of deceased Mannat @ Minu Dilprit Kaur Virk on an allegation that the deceased was married to co-accused Dilprit in the year 2022; it was a love marriage. She had one son from the said wedlock. It is alleged that after the marriage, within 15 days, co-accused Dilprit started ill-treating her by suspecting her character. On 24/06/2024, the deceased went along with her friend at Sadar; on that count also, the co-accused Dilprit abused her by suspecting her character. On 25/06/2024, when he contacted his brother-in-law on his cell phone, but it was shown as not reachable. Then, he contacted the mother of his brother-in-law, and she informed him that his brother-in-law had closed the shop and

she did not know where he had gone. The informant again contacted his sister on mobile, but she did not pick up the phone. Therefore, the complainant and brother of his brother-in-law (Manprit) searched him nearby, but he could not find him. A friend of the deceased, namely Heena Daswani, visited the house of the deceased, but she found that the house was locked from outside and the deceased was not picking up the call; therefore, she approached the police station. The police opened the door and saw that the deceased was found lying in a pool of blood. On the basis of the report, the police have registered the crime against the co-accused, Dilprit. During the investigation, the involvement of the present applicant was revealed, and therefore, she is also arraigned as an accused.

3. Learned counsel for the applicant submitted that the investigation is already completed, charge-sheet is filed, and the role of the present applicant in the commission of crime is, at the most, investigating the co-accused. He submitted that the instigation is also not made out because the previous NCRs were filed four months ago. He further submitted that the entire investigation carried out by the investigating officer nowhere discloses the role of the present applicant in the actual commission of the offence of the matter. He also invited my attention towards the statement of Heena Daswani, Ashok Ramchandra Bondre, and Arif @ Bhurya Vinod Imani and submitted that none of the statements discloses any instigation at the hands of the present applicant or her involvement in the actual commission of the crime, i.e.

eliminating the deceased. He submitted that the presence of the present applicant also does not reveal itself from the investigation papers. Thus, he submitted that considering the entire investigation papers, at the most, the case against the present applicant will come under Section 498-A, not more than that. There is nobody to look after the informant. Custodial interrogation of the present applicant is not required. In view of that, she be released on bail in the event of the arrest.

4. In support of his contention, he placed reliance in the following cases;

- (1) Jagannath Ramchandra Biyani Vs State of Maharashtra [1985 Mh.L.J. 791];
- (2) Principal Seat at Bombay in Anticipatory Bail Application No. 1717/2018 [Sunanda Bapu Wagh vs State of Maharashtra decided on 06/10/2018];
- (3) Sanjay Shrikrishna Ingle Vs State of Maharashtra in Criminal Application (ABA) No. 544/2024 decided on 01/10/2024];
- (4) Yuvraj Bhikaji Gade and others vs State of Maharashtra in Criminal Application No. 2913 of 2014 decided on 10/06/2014 [Aurangabad Bench]
- (5) Criminal Application (ABA) No.481/2019 with Criminal Application (ABA) No. 482/2019 decided on 28/08/2019;
- (6) Bhima Mukinda Kurade and another V/s State of Maharashtra [2018 SCC OnLine Bom 12276];
- (7) Criminal Application (BA) No. 788/2012 decided on 08/02/2013;

- (8) Kantabai Datta Shinde and another Vs State of Maharashtra, decided on 28/10/2020 [Principal Seat]
- (9) Parvati Raosaheb Shinde and another Vs State of Maharashtra [2019 SCC OnLine Bom 11175]
- (10) Menino Lopes vs State of Goa [1995 (1) Bom. C.R. 334].

5. Per contra, learned APP strongly opposed the said application on the ground that entire investigation papers show there was continuous dispute between the present applicant and the deceased. Several NCRs are filed by both of them against each other. On the day incident also, the deceased was confined by the present applicant and the other co-accused by locking the door. The deceased was constrained to call the police, and thereafter, she was rescued from the said place, and in the same night, the alleged incident took place. She submitted that the nature of the injuries are to be looked into, and it is to be seen in what manner the deceased was eliminated. There were 39 injuries on her person.

She further submitted that statements of the witnesses show that in the intervening night, the custody of the minor child was taken forcefully from the deceased, and on that night itself, the deceased was eliminated. Thus she submitted that there may not be direct evidence as to the instigation, but from the circumstances it can be inferred that, on the instigation of the present applicant and by suspecting the character of the deceased, she was eliminated

by the co-accused. Thus, considering the manner in which the deceased was treated and eliminated and the role of the present applicant, is pivotal role in the entire incident. Considering the same, the application deserves to be rejected.

6. In support of her contention, she placed reliance in the case of *Meera Vs State by the Inspector of Police Thiruvotriyur Police Station Chennai [(2022) 3 SCC 93]*, wherein the Hon'ble Apex Court has considered the aspect of the death of the deceased is a matrimonial house and observed that when an offence has been committed by a woman by meting out cruelty to another woman, i.e., the daughter-in-law, it becomes a more serious offence. If a lady, i.e., the mother-in-law herein, does not protect another lady, the other lady, i.e., daughter-in-law would become vulnerable and pray for rejection of the application.

7. After hearing learned counsels appearing for the parties and perusing the investigation papers, it reveals that on the day of the incident, there was quarrel between the deceased, present applicant, and the co-accused- Dilprit, as the deceased went in the market along with her friend. During evening time, the co-accused Dilprit came at a home on the pretext of obtaining his clothes, and thereafter the deceased was found dead and the house was found locked from the outside. Prior to this incident, not only the deceased but also the mother-in-law of the deceased, i.e., the present applicant, had filed complaints against each other. On the basis of which, the NC report were registered. Prior to the

incident also, on 22/02/2024, the deceased as well as her mother-in-law filed reports against each other. In all four NC's are filed by them against each other. In the NC Report dated 22/02/2024, there is an allegation against the present applicant of ill treatment and harassment.

8. As far as the death of the deceased is concerned, admittedly there is no eye-witness to the said incident. A statement of one Heena Daswani, who is the friend of the deceased, was recorded, from which it reveals that when she was leaving the house of the deceased, at that time, the co-accused, i.e. Manprit Sing, was found along with one lady. The identification of that lady is to be determined. The statement of one Arif is also recorded, which shows that the present applicant and other other co-accused were suspecting the character of the deceased, as she was communicating with said Arif. The statement of the said Arif shows that on the day of the incident also, he received the phone call of the present applicant, and the present applicant asked him why he is communicating with the deceased. Thus, considering the entire circumstances on record, it is crystal clear that the deceased was harassed and ill-treated by suspecting her character. On the day of the incident, they both approached the police station, and after the communication with the police about the incident, the co-accused and the present applicant left and went to their house. Thereafter, the co-accused came to the house of the deceased at about 8 to 8.30 p.m., and thereafter the deceased was not found alive. Thus, from all the circumstances, at this stage, the involvement of

the present applicant was revealed. As far as the observation of the Hon'ble Apex Court in case of relationship between the mother-in-law and daughter-in-law is concerned, admittedly when the offence is committed by a woman by meting out cruelty to another woman, i.e., the daughter-in-law, it becomes a more serious offence. A woman who comes at the house after performing the marriage, it is the duty of every family member to protect her, and when she is not protected, it becomes a serious offence.

9. In the present application, the applicant is seeking pre-arrest bail. Admittedly, the principals governing the grant of anticipatory bail is that merely because the prosecution says that the accused is wanted in police custody for investigation, there is no ground to refuse bail. The considerations are that while considering anticipatory bail, the Court has to consider the considerations, i.e. (1) nature of the offense, (2) the punishment provided for the offense, (3) the role played by the applicant, and gravity of the offence as well as whether the applicant would be available for trial and whether the applicant is at flight risk if the applicant is released on bail.

10. Learned counsel for the applicant placed reliance on various decisions, as far as the decision in ***Sunanda Bapu Wagh*** (supra) is concerned, it shows that though the applicant therein was present, he has not played any vital role, and therefore, the Court has considered that Section 34 of the IPC recognizes the principles of vicarious liability.

However, it can be considered at the time of trial. As far as the case regarding ***Sanjay Shrikrishna Ingle*** (supra) is concerned, which is on different aspects. The facts of the case in ***Chetan Santosh Kale and another*** (supra); ***Bhima Mukinda Kurade and another*** (supra) are not identical with the present case. Therefore, these observations are not helpful to the applicant to release the applicant on anticipatory bail.

11. After considering the entire material on record, it reveals that the marriage between the deceased and the co-accused was a love marriage; by believing the words of the co-accused, she resumed the cohabitation, but subsequently she was ill-treated on account of her character. Not only the co-accused, i.e. husband, was suspecting the character of the deceased, but the present applicant was also suspecting the character of the deceased. From the recitals of the various NCR reports, it reveals that there is a prime role played by the present applicant in ill-treating the deceased. On the day of the incident also, on that count, there was a quarrel.

12. Thus, considering the entire scenario and the circumstances under which the alleged incident has taken place, at this stage, the inference can be drawn regarding the involvement of the present applicant. The manner in which the deceased was eliminated is also to be looked into. She has sustained 39 injuries, which shows that in what manner the deceased was assaulted by means of a sharp weapon. Thus, considering all these facts, this is not a fit case, wherein

the discretion can be used in favour of the present applicant.
In view of that, the application deserves to be rejected.
Accordingly, I proceed to pass the following order.

Criminal Application is **rejected**.

[URMILA JOSHI-PHALKE, J.]