

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

ANTICIPATORY BAIL APPLICATION NO. 3557 OF 2024

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| 1. | Mrs. Fatima Kurshit Ansari | .Applicants |
| 2. | Mrs. Zeba Mehboob Alam Ansari | |

vs.

The Senior Police Inspector, Mumbra Police Station, Thane & anr.	.Respondents
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Mr. Mateen Shaikh a/w. Ms. Muskan Shaikh, Mr. Janimu Shaikh &
Mr. Razique Shaikh, Advocates, for the Applicants
Mr. S. A. Karmakar, APP, for the Respondent Nos. 1 & 2 – State
Mr. Bhupesh Salunkhe, PSI, Mumbra Police Station, Thane present

CORAM : MILIND N. JADHAV, J.

DATE : 06.01.2025

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1. Heard Mr. Shaikh, learned Advocate for the Applicants and
Mr. Karmakar, learned APP for the Respondent Nos. 1 & 2 – State.
2. The present Applicants seek Anticipatory Bail who are arraigned
as Accused Nos. 2 & 4. Accused No. 1 is the husband of the victim and
Accused No. 3 is the younger brother of the husband.
3. The Applicants apprehend arrest in connection with C.R. No.
2291 of 2024 registered with the Mumbra Police Station, Thane, for
the alleged offences punishable under Sections 108, 3(5) of the
Bharatiya Nyaya Sanhita, 2023.

4. The case of the prosecution is that the victim and Accused No. 1 got married on 11.11.2024 by performing Court marriage before the Sub Registrar, Thane which is evident from the Certificate issued and placed on record. Admittedly, family of the victim and Accused are neighbours residing next to each other. The first informant is the mother of the victim. Admittedly, pursuant to the aforementioned marriage between the victim and Accused No. 1, the victim stayed in the house of her mother i.e. the first informant. According to the prosecution, the family of the victim were making arrangements for having a marriage ceremony between the victim and Accused No. 1 on 15.11.2024 thereafter. However, on 12.11.2024, they were informed by Accused No. 1 that his mother (namely Accused No. 3 and Applicant No. 1 before me) was not in support the said marriage. It is prosecution case that on 14.11.2024, Accused No. 1 informed the Complainant that his mother (Accused No. 2) and Accused No. 3 were not ready and willing to accept the marriage and his mother would harm herself otherwise. Thereafter, Accused No. 1 switched off his mobile and became incommunicado.

5. The prosecution case further is that on 15.11.2024, Accused No. 1 informed the victim on phone that he will not marry her pursuant to which the victim lodged a complaint against him on 16.11.2024 in the

Police Station at Mumbra. Thereafter, it is alleged by prosecution that on 18.11.2024, the victim was summoned by Accused Nos. 2 to 4 near their house and told that Accused No. 1 will not get married to her and therefore, he should sign the divorce papers. The victim, thereafter, returned home. Further, it is prosecution case that on the same date at about 9.30 p. m., Accused Nos. 2 to 4 visited victim's house and abused her. The aforesaid precursor incidents are stated in the complaint filed by the victim's mother, since on the following day i.e. on 19.11.2024 at about 9.30 a. m., the victim consumed one bottle of rat poison and attempted suicide. She was admitted in the Civil Hospital where she was treated for two days but she succumbed ultimately on 21.11.2024.

6. Mr. Shaikh, learned Advocate for Applicants has drawn my attention to the FIR and would submit that considering the span of the dates which are stated therein between the date of marriage i.e. 11.11.2024 and the date of incident (19.11.2024) of consuming poison and more specifically adhering to the definition of abetment in which indictment of the Applicant has been made, *prima facie*, there is nothing on record attributing any act on the part of the present Applicants to have instigated or involved the mental process of the victim or aided her into committing the act committed by her. He would submit that in the present case, the Court should consider the

fact that the victim herself was, admittedly, married earlier and she was separated from her previous husband which is stated in the FIR itself and therefore, possible cause of being told about non-acceptance of marriage may have affected her fragile mind but whether the Applicants could be blamed for that is the moot question to be answered.

7. Per contra, Mr. Karmakar, learned APP for the Respondent Nos. 1 & 2 has effectively attempted to persuade me to consider the sequences of events between 11.11.2024 and 18.11.2024 i.e. the span of seven days and would contend that once the victim was confronted and told with the fact that she would not be accepted by the Applicants. Such an act would amount to commission of an act to intentionally put the victim into forcing her to take extreme step of committing suicide. He would vehemently argue and submit that since the victim was legally married by Court marriage on 11.11.2024 and she was not accepted by the Applicants in their house as the newly wedded wife of Accused No. 1, that fact would undoubtedly affect her mental status and therefore he would submit that such action on the part of the Applicants should be viewed as a positive act on their part to instigate and aid the victim to push her to take the extreme step of ultimately attempting to commit suicide.

8. I have applied my mind to the submissions made by Mr. Karmakar, learned APP for the Respondent Nos. 1 & 2 and perused the record of the case. In the present case, issue of abetment concerns involvement of mental process of instigating a person is required to be defined by a positive act showing intention of the person who commits and intentionally aids another person to commit the extreme act. In the present case, admittedly, from the case of the prosecution made out in the FIR itself, it is an admitted fact that even though the victim had married Applicant on 11.11.2024, she was staying with the Complainant in her own house since the family of the victim was contemplating having a marriage ceremony and preparing for the same on 15.11.2024. What transpired in between these two dates and subsequent date i.e. on 18.11.2024 are two incidents as alleged by the prosecution. Firstly, the Accused No. 1 informing the victim on phone about non-acceptance by the Applicants and next insofar as Applicants are concerned, they meeting the victim and informing her to sign the divorce papers. Whether these two incidents can be said to be such as to instigate the victim to commit the extreme act is the question. Aiding and abetting the victim to take the extreme step by the Applicants before me in the above facts is found in the complaint when the

Complainant was not present and when the victim is alleged to have met the Applicants. In that view of the matter, I am inclined to accept the submissions made by Mr. Shaikh, learned Advocate for the Applicants and allow the present Application for grant of Anticipatory bail of the Applicants.

9. Considering the nature of the allegations and circumstances, the Applicants are granted pre-arrest bail on the following terms and conditions :

O R D E R

- (i) In the event of the arrest, the Applicants be enlarged on bail on furnishing P. R. Bond in the sum of Rs. 15,000/- each with one or two sureties in the like amount;
- (ii) The Applicants shall not tamper or attempt to influence the complainant, witnesses or any person concerned with the case;
- (iii) The Applicants shall attend the Police Station on the first Monday of every month between 10.00 a. m. and 12.00 noon until the Charge-sheet is filed and as and when called for by the investigating officer thereafter;
- (iv) The Applicants shall inform their latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the

Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(v) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

10. The Application is allowed in the aforesaid terms and is accordingly disposed of.

11. It is made clear that the observations made herein are *prima facie* and are confined to this Application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

12. All concerned to act on the authenticated copy of this order.

(MILIND N. JADHAV, J.)