

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 724 OF 2025

Bharti Sahebrao Ahire

..... Applicant

VERSUS

State of Maharashtra

..... Respondent

Mr. Santosh Musale a/w. Mr.Vikas Tiwari, Mr. Rohit Gupta for the Applicant.

Ms.Pallavi N. Dabholkar, A.PP for the State.

Mr.Shashikant Pawar, P.S.I., Upnagar Police Station, Nashik City present.

CORAM : RAJESH S. PATIL, J.

DATE : 18th MARCH, 2025

P.C. :-

This is second pre-arrest bail application filed by the accused no.3 who is the mother-in-law of the deceased lady. By an earlier order dated 8th January, 2025, the pre-arrest bail application filed by the applicant was rejected by the co-ordinate Bench of this Court (Coram : Shri N.R.Borkar, J.).

2. The only reason the advocate appearing for the applicant states for filing second anticipatory bail application is that there is change of circumstances since the charge-sheet has now been filed.

3. The applicant is apprehending her arrest in Crime No.423 of 2024 registered with Upnagar Police Station, District Nashik for the offences punishable under Sections 80, 85, 115(2), 352, 351(2), 3(5) of the Bharatiya Nyaya Sanhita, 2023.

4. The deceased has committed suicide within one month of her marriage. In the FIR, it has been specifically stated that there was demand of dowry by the husband and in-laws, the present applicant being mother-in-law, her name appears in the FIR.

5. It is submitted on behalf of the applicant that the applicant has no role to play in the alleged offence. Her son, the husband of the deceased has been granted regular bail. So also, the husband of the present applicant has been granted pre-arrest bail by the Sessions Court. It is submitted that it can be seen from the statement on record of one of the neighbour that during the unfortunate day, when the suicide was committed by the daughter-in-law of the present applicant, things were totally normal.

6. It seems that the deceased was in contact with two individuals after her marriage, due to which there were fights between the deceased and her husband. Due to this kind of approach to life by the deceased of being in contact with people on social App, it resulted into

frequent fights between the husband and the deceased. It seems that the deceased already had a paramour which came to the knowledge of the husband of the deceased. The applicant is a lady and is ready to co-operate with the police. The custody of the present applicant is not necessary.

7. The learned A.P.P. submits that there is no change in the circumstances after this Court rejected the pre-arrest bail application dated 8th January, 2025 in Anticipatory Bail Application No. 3630 of 2024. She submits that as far as the present applicant is concerned, there are atleast 10 criminal antecedents.

8. She submits that the husband of the deceased was also earlier married and he got divorce from the first marriage and crime was registered against the husband of the deceased wherein the present applicant was also a party. The crime was registered under Section 498A of the Indian Penal Code. She submits that taking into consideration the antecedents and the contents of the FIR which records that there was demand of dowry by the present applicant and the death of the daughter-in-law of the present applicant occurred within one month of her marriage, Section 117 of the Bharatiya Sakshya Adhiniyam, 2023 is attracted. Therefore, the present pre-

arrest bail application needs to be rejected.

9. I have heard learned counsel for both the sides and have taken into consideration the documents on record.

10. There is no doubt that this is the second bail application preferred in this Court by the applicant. The reason given by the learned counsel for the applicant for filing second bail application within a short span of time is that the charge-sheet has now been filed. I am not convinced with the reason given by the applicant. Only on this ground, I can reject this application. However, considering the fact that the deceased committed suicide within one month of her marriage and the fact with the FIR, there is statement recorded that the present applicant being the mother-in-law, demanded gold ornaments and also cash amount from the parents of her daughter-in-law. The son of the present applicant had a failed earlier marriage and a complaint under Section 498A of the Indian Penal Code was filed against her son wherein the present applicant is also a party.

11. There are atleast 10 antecedents which have been pointed out by the learned A.P.P. registered against the present applicant which are from the year 2013 till the year 2023. Clearly the statements referred

by the advocate of the applicant to show the innocence of the present applicant, of a lady whose occupation appears to be a 'bouncer'.

12. In the judgment of Supreme Court in case of *Shabeen Ahmad vs. State of Uttar Pradesh & Anr., reported in 2025 SCC OnLine SC 479* delivered on 3rd March, 2025, in paragraph no.15, the Supreme Court has observed the recent trends of High Court granting the bail in dowry matters. Paragraphs nos. 15 and 17 of the said judgment read as under :-

15. We also find it necessary to express our concern over the seemingly mechanical approach adopted by the High Court in granting bail to the Respondent accused. While the Court did note the absence of prior criminal records, it failed to fully consider the stark realities of the allegations. It is unfortunate that in today's society, dowry deaths remain a grave social concern, and in our opinion, the courts are duty-bound to undertake deeper scrutiny of the circumstances under which bail is granted in these cases. The social message emanating from judicial orders in such cases cannot be overstated: when a young bride dies under suspicious circumstances within barely two years of marriage, the judiciary must reflect heightened vigilance and seriousness. A superficial application of bail parameters not only undermines the gravity of the offence itself but also risks weakening public faith in the judiciary's resolve to combat the menace of dowry deaths. It is this very perception of justice, both within and outside the courtroom, that courts must safeguard, lest we risk normalizing a crime that continues to claim numerous innocent lives. These observations regarding grant of bail in grievous crimes were thoroughly dealt with by this Court in *Ajwar v. Waseem (2024) 10 SCC 768* in the following paras:

“ 26. While considering as to whether bail ought to be granted in a matter involving a serious criminal offence, the Court must consider relevant factors like the nature of the accusations made against the accused, the manner in which the crime is alleged to have been committed, the gravity of the offence, the role attributed to the accused, the criminal antecedents of the accused, the probability of tampering of the witnesses and repeating the offence, if the accused are

released on bail, the likelihood of the accused being unavailable in the event bail is granted, the possibility of obstructing the proceedings and evading the courts of justice and the overall desirability of releasing the accused on bail. [Refer : [Chaman Lal v. State of U.P.](#) [[Chaman Lal v. State of U.P.](#), (2004) 7 SCC 525 : 2004 SCC (Cri) 1974] ; [Kalyan Chandra Sarkar v. Rajesh Ranjan](#) [[Kalyan Chandra Sarkar v. Rajesh Ranjan](#), (2004) 7 SCC 528 : 2004 SCC (Cri) 1977] ; [Masroor v. State of U.P.](#) [[Masroor v. State of U.P.](#), (2009) 14 SCC 286 : (2010) 1 SCC (Cri) 1368] ; [Prasanta Kumar Sarkar v. Ashis Chatterjee](#) [[Prasanta Kumar Sarkar v. Ashis Chatterjee](#), (2010) 14 SCC 496 : (2011) 3 SCC (Cri) 765] ; [Neeru Yadav v. State of U.P.](#) [[Neeru Yadav v. State of U.P.](#), (2014) 16 SCC 508 : (2015) 3 SCC (Cri) 527] ; [Anil Kumar Yadav v. State \(NCT of Delhi\)](#) [[Anil Kumar Yadav v. State \(NCT of Delhi\)](#), (2018) 12 SCC 129 : (2018) 3 SCC (Cri) 425] ; [Mahipal v. Rajesh Kumar](#) [[Mahipal v. Rajesh Kumar](#), (2020) 2 SCC 118 : (2020) 1 SCC (Cri) 558] .]

27. It is equally well settled that bail once granted, ought not to be cancelled in a mechanical manner. However, an unreasoned or perverse order of bail is always open to interference by the superior court. If there are serious allegations against the accused, even if he has not misused the bail granted to him, such an order can be cancelled by the same Court that has granted the bail. Bail can also be revoked by a superior court if it transpires that the courts below have ignored the relevant material available on record or not looked into the gravity of the offence or the impact on the society resulting in such an order. In [P v. State of M.P.](#) [[P v. State of M.P.](#), (2022) 15 SCC 211] decided by a three-Judge Bench of this Court [authored by one of us (Hima Kohli, J.)] has spelt out the considerations that must weigh with the Court for interfering in an order granting bail to an accused under [Section 439\(1\) CrPC](#) in the following words : (SCC p. 224, para 24)

“24. As can be discerned from the above decisions, for cancelling bail once granted, the court must consider whether any supervening circumstances have arisen or the conduct of the accused post grant of bail demonstrates that it is no longer conducive to a fair trial to permit him to retain his freedom by enjoying the concession of bail during trial [[Dolat Ram v. State of Haryana](#), (1995) 1 SCC 349 : 1995 SCC (Cri) 237] . To put it differently, in ordinary circumstances, this Court would be loathe to interfere with an order passed by the court below granting bail but if such an order is found to be illegal or perverse or premised on material that is irrelevant, then such an order is susceptible to scrutiny and interference by the appellate court.” Considerations for setting aside bail

orders

28. The considerations that weigh with the appellate court for setting aside the bail order on an application being moved by the aggrieved party include any supervening circumstances that may have occurred after granting relief to the accused, the conduct of the accused while on bail, any attempt on the part of the accused to procrastinate, resulting in delaying the trial, any instance of threats being extended to the witnesses while on bail, any attempt on the part of the accused to tamper with the evidence in any manner. We may add that this list is only illustrative and not exhaustive. However, the court must be cautious that at the stage of granting bail, only a prima facie case needs to be examined and detailed reasons relating to the merits of the case that may cause prejudice to the accused, ought to be avoided. Suffice it is to state that the bail order should reveal the factors that have been considered by the Court for granting relief to the accused.”

17. In view of the discussion above, we direct that the bail granted to Accused No.2 (father-in-law) and Accused No.3 (mother-in-law) is hereby cancelled. They shall surrender before the concerned trial court/authority forthwith, failing which the authorities shall take steps to take them into custody.

[Emphasis supplied]

13. Sections 117 and 118 of the Bharatiya Sakshya Adhiniyam,

2023 read as under :-

117. Presumption as to abetment of suicide by a married woman.- When the question is whether the commission of suicide by a woman had been abetted by her husband or any relative of her husband and it is shown that she had committed suicide within a period of seven years from the date of her marriage and that her husband or such relative of her husband had subjected her to cruelty, the Court may presume, having regard to all the other circumstances of the case, that such suicide had been abetted by her husband or by such relative of her husband.

118. Presumption as to dowry death.- When the question is whether a person has committed the dowry death of a

woman and it is shown that soon before her death, such woman had been subjected by such person to cruelty or harassment for, or in connection with, any demand for dowry, the Court shall presume that such person had caused the dowry death.

14. Taking into consideration, the contents of FIR, Sections 117 and 118 of the Bharatiya Sakshya Adhiniyam and law as laid down by the Supreme Court, I am satisfied that pre-arrest bail in the present proceedings should not be granted. Hence, **the present anticipatory bail application is rejected.**

[RAJESH S. PATIL, J.]