

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CRIMINAL MISC.APPLICATION NO. 21478 of 2021**

SUNILKUMAR RAJESHWARPRASAD SINHA

Versus

STATE OF GUJARAT

Appearance:

MR NITIN T GANDHI(5620) for the Applicant(s) No. 1,2

MR. MANTHAN V SHUKLA(10021) for the Applicant(s) No. 1,2

ROHANKUMAR M AMIN(8851) for the Applicant(s) No. 1,2

MR HB CHAMPAVAT(6149) for the Respondent(s) No. 1

MR MANAN MEHTA, APP for the Respondent(s) No. 1

**CORAM:HONOURABLE MR. JUSTICE ILESH J. VORA****Date : 08/03/2022****ORAL ORDER**

1. Apprehending arrest, the applicants by way of present application under Section 438 of the Code of Criminal Procedure, 1973, have prayed for anticipatory bail in connection with the **FIR being C.R.No. 11191038211533 of 2021 registered with Vatva Police Station, Ahmedabad** for the offences under Sections 306, 498-A, and 114 of the IPC and Sections 3 and 7 of the Dowry Prohibition Act.

2. Facts and circumstances giving rise to file the present application is that, the applicants are father-in-law and mother-in-law of deceased Ranita. Accused No.1 Premkumar is the husband of the deceased. Marriage was solemnized on 29.05.2021. The alleged incident of suicide took place on 08.10.2021. The first informant is the brother of the deceased, residing at village Tinsufiya, State Assam. After the marriage, deceased was residing with the husband in joint family at Ahmedabad. It is alleged in the FIR that, the accused herein harassed the deceased by demanding dowry and in any domestic petty issue, she was subjected to cruelty. It is stated by the informant inter alia stating in the FIR that, prior to the incident, deceased came to parental home and informed the family

members about the cruelty and harassment committed by the accused. In this background fact, it is alleged that, the deceased committed suicide at matrimonial home by hanging herself due to instigation on the part of the accused and have abetted in the alleged suicide committed by his sister. Hence, this FIR.

3. Mr. N.T.Gandhi, learned advocate for the applicants submitted that the facts of the case do not constitute the offence punishable under Section 306 of IPC as there is no specific allegation that, the applicants have instigated or abetted the deceased to commit suicide. So, he submitted that prima facie no offence under Section 306 of IPC is made out. He further submitted that the applicants being in-laws of the deceased have not played any role so far the allegation of commission of the offence of cruelty and demand of dowry is concerned. The husband - accused No.1 has been arrested and he is behind the bar. It is therefore, submitted that, before marriage and thereafter, deceased was suffering the illness of depression and considering the age of the applicants, discretion may be exercised in their favour by granting pre-arrest bail by imposing appropriate terms and conditions.

4. Mr. H.B.Champavat, learned counsel appearing for the original informant submitted that marriage span is of four months and therefore, it can be inferred that, the deceased was subjected to cruelty by the accused. He further submitted that, the applicant No.1, who is father in law of the deceased demanded cash amount from the informant and accordingly, Rs.4 lacs on different occasion in the bank account was deposited and at the time of marriage, they had given cash and gold ornaments and other gifts as per their demand, however, the accused abused the deceased and tortured her mentally and physically by constant demand of dowry. In this background facts, it is, therefore, submitted that, the applicants have committed an offence of abettment as contemplated under Section 107 of the IPC and therefore, prima facie, the involvement

of the applicants for the alleged offence of Sections 306 of IPC is made out.

5. Mr. Manan Mehta, learned Additional Public Prosecutor appearing on behalf of the respondent - State adopting the arguments advanced by learned counsel for the informant contended that, no case is made out for the exercise of power to grant anticipatory bail as the offence alleged is serious and grave in nature affecting the society at large. It is therefore submitted that, no case is made out for granting anticipatory bail.

6. Having heard the learned advocates for the parties and perusing the material placed on record and taking into consideration the facts of the case, the applicants herein are father in law and mother in law of the deceased. It is true that the marriage span is of 4 months. A perusal of the FIR would show that, the informant has not alleged that, the applicant No.1 demanded cash amount from him and upon demanding the amount, he deposited Rs.4 lacs in the account of applicant No.1. Even he has not mentioned in the FIR that, at the time of marriage, he had paid Rs.3 lacs in cash and gold ornaments as well as gifts towards dowry. The informant could have produced the bank statement of him to show the transaction as alleged in his affidavit. The applicants have placed on record medical prescription of Sanjeevani Hospital, which shows that deceased was examined on 10.06.2017 by Dr. Sudhakar Choubey at Debrugadh, Assam and she was prescribed some medicines including tablet Aamixides-H for treatment of depression associated with anxiety etc.

7. In the aforesaid premise, this Court is of considered view that, in the FIR, general allegations being alleged for demand of dowry and cruelty, without there being any specific instances and allegations against the applicants. It is settled law that, in order to bring a case within provisions of Section 306 of the IPC, there must be a case of suicide and in commission of the offence, person who is

said to have abetted the alleged suicide, must have played an active role by an act of instigating or by doing a certain act to facilitate commission of suicide.

8. Considering the facts and circumstances of the case and the role attributed to the present applicants, factors and parameters, necessary to be considered for adjudication of anticipatory bail, without commending on merits of the case, case is made out for exercise of power to grant anticipatory bail and therefore, this Court finds that it is a fit case to grant pre-arrest bail. In the result, the present application is allowed. The applicants are ordered to be released on bail in the event of their arrest in connection with the **FIR being C.R.No. 11191038211533 of 2021 registered with Vatva Police Station, Ahmedabad** on their executing a personal bond of Rs.10,000/- (Rupees Ten Thousand Only) each with one surety of like amount on the following conditions:

(a) shall cooperate with the investigation and make themselves available for interrogation whenever required;

(b) shall remain present at concerned Police Station on **16.03.2022 between 11.00 a.m. and 2.00 p.m.;**

(c) shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the fact of the case so as to dissuade him from disclosing such facts to the court or to any police officer;

(d) shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police

(e) shall at the time of execution of bond, furnish the address to the investigating officer and the court concerned and shall not change their residence till the final disposal of the case till further orders;

(f) shall not leave India without the permission of the Trial Court and if having passport shall deposit the same before the Trial Court within a week; and

(g) it would be open to the Investigating Officer to file an application for remand if he considers it proper and just and the learned Magistrate would decide it on merits.

9. Despite this order, it would be open for the Investigating Agency to apply to the competent Magistrate, for police remand of the applicants. The applicants shall remain present before the learned Magistrate on the first date of hearing of such application and on all subsequent occasions, as may be directed by the learned Magistrate. This would be sufficient to treat the accused in the judicial custody for the purpose of entertaining application of the prosecution for police remand. This is, however, without prejudice to the right of the accused to seek stay against an order of remand, if, ultimately, granted, and the power of the learned Magistrate to consider such a request in accordance with law. It is clarified that the applicants, even if, remanded to the police custody, upon completion of such period of police remand, shall be set free immediately, subject to other conditions of this anticipatory bail order.

10. At the trial, the Trial Court shall not be influenced by the *prima facie* observations made by this Court in the present order. Rule is made absolute to the aforesaid extent. Direct service is permitted.

**(ILESH J. VORA,J)**

SUCHIT