

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 2331 OF 2015

Sominath s/o Kacharu Chinchole .. APPLICANT
Versus
State of Maharashtra .. RESPONDENT

...
Shri J.V.Deshpande, Advocate for applicant
Shri A.V.Deshmukh ,APP for respondent State
...

**CORAM : V.M.DESHPANDE,J.
DATED : 7TH MAY, 2015**

ORDER :-

This is an application under Section 439 of Cr.P.C. The applicant is arrested on 4/1/2015 in connection with Crime No.I-1/2015 registered at Karmad police station, Dist.Aurangabad for offences punishable under Sections 304-B, 498-A, 323, 504, 506 r.w. 34 of I.P.C. And u/s 3, 4 of the Dowry Prohibition Act.

2] I have heard Shri J.V.Deshpande, learned counsel for the applicant and Shri Deshmukh, learned A.P.P for State.

3] The investigating officer has already completed entire investigation and charge sheet is already presented before Court.

4] Applicant is husband of deceased Anjali. Marriage between Anjali and applicant took place on 22/2/2012. Anjali died due to burn injuries on 3/1/2015.

5] First Information Report is lodged by Vikram maternal uncle of deceased Anjali. The F.I.R. would reveal that for first year of the marriage, Anjali was given nice treatment, however, she was subjected to cruelty at the hands of applicant and other co-accused on account of demand of Rs.50,000/- for construction of the house. The F.I.R. also shows that on 15/12/2014, she was dropped by present applicant at her parental house. The F.I.R. discloses that after 5 days i.e. on 20/12/2014, Anjali reached to her matrimonial house.

6] According to F.I.R. on 3/1/2015, when the first informant and others had been to the hospital, that time, oral dying declaration was made to him that the present applicant and other co-accused persons gave ill treatment on account of demand of money and therefore, she has poured kerosene and set herself ablaze.

7] Learned A.P.P, also pointed out the statements of Ganesh and one Pushpabai which also reiterates the claim made by the first informant in respect of oral dying declaration. In that behalf, worth to note is the statement of police head constable Shankar Chavan which reveals that this police personally had been to the hospital for recording dying declaration of deceased Anjali. That time, it was made known to him by doctor that Anjali is not in a position to speak and therefore, her dying declaration was not recorded. In the backdrop of this, prima facie, it will be unbelievable that on the very same day, Anjali will make any oral dying declaration to her close relatives. Further from the statement of Janardhan and Sikandar it appears that there used to some skirmishes in between Anjali and her family members due to which many times Anjali used to leave her place.

8] Even assuming that there was oral dying declaration in that event also, the nature of the accusation against present applicant is general in nature. The accusations were also made against other co-accused persons who are already on bail. In that view of the matter and also the fact that investigation is over and prima facie there is no material that in proximity of the committing suicide there was any demand from the applicant, applicant is entitled to be released on bail. Accordingly, I pass following order :

ORDER

a] Criminal Application is allowed. Applicant Sominath Chinchole be released on bail in connection with Crime No.I-1/2015 registered at Karmad police station, Dist.Aurangabad for offences punishable under Sections 304-B, 498-A, 323, 504, 506 r.w. 34 of I.P.C and u/s 3, 4 of the Dowry Prohibition Act on he executing P.R. Bond of Rs.5000/- with one solvent surety in the like amount. Bail before trial Court. Application disposed of.

(V.M.DESHPANDE,J.)

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