

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

CRIMINAL APPLICATION NO. 5446 OF 2015

Yogesh s/o Baban Gavhane

.. APPLICANT

VERSUS

The State of Maharashtra

.. RESPONDENT

Mr. R.A. Tambe, advocate for applicant.
Mr. S.M. Ganachari, APP for the State.

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**CORAM : INDIRA K. JAIN, J.
DATE : 26th NOVEMBER, 2015.**

ORAL ORDER :

Applicant is involved in Crime No. I-147/2015 registered at Shrirampur (city) Police Station for the offences punishable under sections 306, 498(A), 323, 504 r/w section 34 of the Indian Penal Code.

2. It is the case of the prosecution that deceased Pooja daughter of complainant Sangeeta Vijay Girhe was married to applicant on 10.11.2008. Initially, for one month, Pooja was treated well in the matrimonial house. It is alleged that thereafter Pooja was illtreated by the applicant and others in the family on demand of Rs. 60,000/-.

3. According to informant, on 21.05.2015, at 4.30 pm, Pooja informed on phone to her mother that her husband and one lady Seema alleged keep of applicant tried to pour kerosene on her person and set her ablaze. Therefore, she ran away from the house and went to her maternal place.

4. On 25.05.2015, at around 10.30 pm., complainant saw that Pooja had hanged herself and so she raised alarm. The neighbours assembled and then Pooja was shifted to the hospital where she was declared dead by the doctors.

5. Informant lodged report with the police on 29.05.2015 alleging therein that due to constant illtreatment at the hands of applicant and his relatives, Pooja was compelled to commit suicide. As per post mortem report, cause of death was hanging.

6. Though it is mentioned in First Information Report that Pooja informed her mother on phone that on 21.5.2015 her husband and his keep Seema attempted to pour kerosene on her person and set her ablaze, no report of the alleged incident was lodged. It appears from the police papers that statements of neighbourers of the accused have not been recorded to show that Seema was residing with the applicant at the relevant time as alleged in the First Information Report.

7. The dispute between deceased and applicant was of matrimonial nature. If demand was since after one month of marriage in the year 2008, there ought to have been report in respect of the alleged demand. It appears from the averments in First Information Report that in the year 2013, she initiated action and on 10.06.2013, after settlement, Pooja joined the company of her husband. This creates doubt that Seema was staying with the applicant. Had it been so, Pooja would not have agreed to join the

company of her husband on 10.06.2013.

8. In the above premise and considering the nature of offences alleged against the applicant, manner of incident and severity of punishment, this court finds it fit to exercise the judicial discretion. Hence the following order :

- I. Criminal Application No. 5446/2015 is allowed.
- II. Applicant Yogesh s/o Baban Gavhane is released on PR and SB of Rs. 15,000/- each.
- III. Applicant shall not tamper with the prosecution evidence and shall make himself available as and when required.

(INDIRA K. JAIN)
JUDGE

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