

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

CRIMINAL APPLICATION NO.:6215 OF 2015

Dinesh S/o Natha Galande
VERSUS
The State of Maharashtra

Mr. Niteen V. Gaware, Advocate for Applicant.
Ms. S. S. Raut, A.P.P. for Respondent.

CORAM : **INDIRA K. JAIN, J.**

DATE : 07th December, 2015.

ORAL ORDER:

. Here is an application for pre-arrest bail in Crime No.I-272 of 2015 registered at Karjat Police Station, District Ahmednagar for the offences punishable under Sections 498-A, 302, 354 and 323 read with 34 of the Indian Penal Code.

2 Heard Mr. N. V. Gaware, learned counsel for Applicant and Ms. S. S. Raut, learned APP for State. Perused papers of investigation.

3 Prosecution case in brief is as under –

Deceased Tai was the daughter of Complainant

Bajirao Kisan Waghmore resident of Kokarewadi, Taluka Ashti, District Beed. She was married to Ganesh Natha Galande, resident of Koregao, Taluka Karjat on 21st June, 2015 as per the customary rights. It is alleged that father-in-law of Tai had an evil eye on her and before one month of incident had outraged her modesty and she informed about the incident to her father. Her father intervened and pacified her father-in-law and husband. On the earlier day of incident i.e. 20th October, 2015 Tai asked her father on phone that she has to speak to him and enquired when would he come. Her father informed that on the next day in the morning he would be there at her place.

4 On 21st October, 2015 at 05:00 am Natha Galande father-in-law of deceased informed the first informant on phone that Tai was sleeping. She is not getting up and discontinued the call. Again father-in-law called the first informant and told that she was not responding and there is no point in shifting her to hospital. Thereafter first informant rushed to the place of his daughter Tai and saw her dead.

5 From postmortem it can be revealed that death of Tai was caused due to throttling. On the same day informant reported the incident and alleged that Applicant and others were ill-treating Tai and

they were responsible for her death. On the report above said crime came to be registered against Applicant and others.

6 Learned counsel for Applicant submitted that no specific role is attributed to Applicant in FIR. Entire family has been roped by making vague allegations of ill-treatment. Learned counsel submitted that Applicant had no concern with the previous incident and in the absence of any overt act on the part of Applicant, he be enlarged on bail in the event of his arrest.

7 Per contra Learned APP strongly resisted the application. She submits that death took place within four months of marriage in the house of Accused. Applicant and other Accused are responsible for causing death of Tai. Learned APP submitted that considering the nature of offences application be rejected.

8 It can be seen from FIR that no overt act is attributed to Applicant. He is brother-in-law of deceased. Allegations are made particularly in respect of father-in-law. Prosecution case is based on circumstantial evidence. It appears from the papers of investigation that statements of neighbourers have not been recorded. So far as present Applicant is concerned vague allegations regarding ill-

treatment are made in FIR.

9 In view of vague allegations regarding ill-treatment in FIR and absence of allegations in respect of overt act on the part of Applicant this Court finds *prima-facie* involvement of Applicant in commission crime as doubtful. As per postmortem report death was caused due to asphyxia due to throttling. In such circumstances, question of custodial interrogation of Applicant would not arise. This Court is thus inclined to allow the application. Hence the following order –

ORDER

- I. Criminal Application No.6215 of 2015 is allowed.
- II. In the event of arrest of Applicant Dinesh S/o Natha Galande in Crime No.I-272 of 2015 registered at Karjat Police Station, District Ahmednagar for the offences punishable under Sections 498-A, 302, 354 and 323 read with 34 of the Indian Penal Code, he shall be released on bail on P.R. and S.B. of Rs.25,000/- (Rupees Twenty Five Thousand Only) each.

- III. He shall not tamper with the prosecution evidence and shall make himself available as and when required.

[INDIRA K. JAIN, J.]

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