

Karimuddin Sayyed		Applicant
Vs.		
State of Maharashtra		Respondent

CORAM: P.D. KODE, J.

DATED: JANUARY 21, 2015

1. By this application the applicant, arrested by Malwani Police Station Mumbai on 29-11-2014 in connection with Crime No.315 of 2014 registered with said police station upon FIR lodged by mother of victim one Ayesha for offences under Sections 498A and 304B of the IPC, has prayed for bail. Learned APP, in view

of I.O. being present, has opted to argue the matter on the basis of papers of investigation. The learned APP submitted that the FIR itself reveals that the deceased was being harassed by the applicant for bringing money from her parents. It is submitted that it also reveals that on the count of not bringing the money from the parents, the applicant was assaulting her. It is urged that the FIR reveals that due to it, the deceased committed suicide by hanging. The learned APP by laying finger upon the provisions of Section 304B of the IPC submitted that under said section any demand of money is also covered and as such the death of the victim having occurred within one-year-one-month from the date of marriage, it would be required to be termed as a dowry death and as such considering the cruel manner in which the deceased was forced to give up her life warrants not acceding with the prayer for bail.

2. Ms M.J. Reena Rolland, learned counsel for the applicant, has pressed the prayer for bail by submitting that there is no whisper of demand of dowry, as contemplated under Section 304B of the IPC. It is submitted that mere demand for bringing money is not covered within the provisions of said section. It is thus submitted that hence, prima facie, it is debatable that Section 304B of the IPC would be attracted in the instant case. It is urged, hence the prayer for bail be considered as the applicant is in custody since his arrest and as such no fruitful purpose would be served as it is very much unlikely that his release will adversely affect the investigation. After careful perusal of the provisions of Section 304B of the IPC, and particularly the dowry death, as contemplated by said section, prima facie, there appears substance in the

submission canvassed by the learned counsel for the applicant. Perusal of the FIR from said angle does not reveal of the deceased being subjected to harassment on the count of demand of dowry or any demand in connection with dowry. Having regard to it, and prima facie since it is debatable whether the provisions of said section would be attracted in the instant case and the FIR and the other papers of investigation also not showing any material collected, directly or indirectly, revealing of the deceased being subjected to cruelty or harassment on the count, as contemplated under Section 304B of the IPC, discretion deserves to be exercised in favour of grant of bail, which is rule of law.

3. Resultantly, the application is allowed. The applicant is directed to be released on bail in above said crime number on

furnishing P.R. Bond in the sum of Rs.75,000/- (Rupees Seventy Five Thousand only) with one or more sureties to make up like amount and subject to conditions that after his release the applicant shall (i) stay at the address mentioned in the application and shall not change the same without permission of the Court; (ii) attend the I.O. on every Monday, Wednesday and Saturday in between 11:00 a.m. to 1:00 p.m. for a period of one month and thereafter on every Monday and on the other day on which he would be specifically summoned by the I.O. for the purpose of investigation; (iii) not indulge in any activity of coming into the vicinity of any of the prosecution witnesses nor indulge in activity of either directly or indirectly threatening, coercing, intimidating or pressurizing the prosecution witnesses in any manner; and (iv) not misuse the bail granted vide this order for fleeing

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away or for committing any further offence.

4. The application accordingly stands
disposed of.

(P.D. KODE, J.)