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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.209 OF 2015

Sureshchandra Brahmadin Mishra	...	Applicant
V/s.		
The State of Maharashtra	...	Respondent

Mr.Ujwal R. Agandsurve, for the Applicant.

Mr.Y.M.Nakhwa, APP for the Respondent – State.

PI.- Nilkanth Patil, Vishnugar Police Station, Dombivali, Thane.

CORAM : REVATI MOHITE DERE, J.

DATED : 23rd MARCH, 2015.

P.C.

1. Heard the learned counsel for the Applicant and the learned APP for the Respondent-State.

2. By this application, the Applicant seeks his enlargement on bail, in connection with C.R.No.I-144 of 2014 registered with the Vishnu Nagar Police Station, Dombivali, Thane, for the alleged offences punishable under Sections 498(A), 304(B), 306, 504 r/w 34 of the Indian Penal Code.

3. The first informant – Ashishkumar Sargamlal Shukla, is the

brother of the deceased. According to the prosecution, the incident in question has taken place on 14th June, 2014, at about 12.30 p.m in the afternoon, when the deceased committed suicide by setting herself ablaze. It is alleged that the co-accused – Vijay Mishra's first marriage took place on 18th June, 1994 and his first wife died due to a stove blast in an incident which took place on 7th May, 2006. It is alleged by the complainant, that the deceased was the second wife of the co-accused – Vijay Mishra and that they were married on 25th June, 2007. According to the complainant, the co-accused – Vijay Mishra would assault the deceased under the influence of liquor and would demand dowry from the parents of the deceased. It is alleged that the co-accused – Vijay Mishra was having illicit relations with his sister-in-law and that all the co-accused used to assault the deceased on some pretext or the other. It appears that initially, although Section 302 of the Indian Penal Code was applied, subsequently whilst filing charge-sheet, the same was dropped.

4. The learned counsel for the applicant contended that the present applicant is the father-in-law of the deceased, and that the general allegation as against him, is that he alongwith all the other co-accused would assault the deceased and would not allow the deceased to speak on

the phone for long hours. The other general allegation is that on the date of the incident all the accused had assaulted the deceased. Learned Counsel for the applicant relied on the statement of the daughter of the deceased. Perused the said statement. It appears that in the said statement, the daughter of the deceased has stated that the present applicant was sleeping in his bed-room at the relevant time.

5. Learned APP has opposed the bail application. He contended that the present applicant was serving as a Head Constable in the Railway Police Force and that the possibility of tampering with the evidence, cannot be ruled out.

6. Perused the charge-sheet, in particular the statement of the complainant and the statement of the daughter of the deceased. It is not disputed that the mother-in-law had been enlarged on bail by the Sessions Court. As far as the role of the present applicant is concerned, the allegations as against the present applicant are general in nature as disclosed in the complaint. Apart from that there is some discrepancy in the statement of the daughter of the deceased, with regard to the alleged assault on the deceased by the present applicant. The statement of the

daughter shows that the applicant was lying down in his room at the relevant time. The said statement does not in any way implicate the applicant. Merely because the applicant is serving as a Head Constable in the Railway Police Force, cannot be a ground to dis-entitle him from being enlarged on bail on the merits of the case. The applicant has been in custody since the date of his arrest i.e. from 22nd June, 2014.

7. Considering the material on record qua the present applicant and the fact that the investigation is complete and charge-sheet has been filed, the Applicant deserves to be enlarged on bail on the following terms and conditions ;

ORDER

- i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount ;
- ii) The Applicant shall attend the Vishnu Nagar Police Station, Dombivali, Thane, once a fortnight i.e on 1st and 3rd Saturday of every month between 10.00 a.m. to 12.00 noon., initially for 3 months and thereafter on the 1st Saturday of every month, till the conclusion of the trial ;

- iii) The Applicant shall not tamper or attempt to influence the complainant or any persons concerned with the case ;
- iv) The Applicant shall co-operate in the conduct of the trial.

- 8. The Application is allowed and disposed of in above terms.
- 9. Needless to observe, that the learned Judge shall decide the case on its own merits uninfluenced by the observations made in this order.
- 10. Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)