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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 141 OF 2015
IN
CRIMINAL APPEAL NO. 40 OF 2015**

Rajesh Jagan Karote	]	
Age 39 years, Occ: Service	]	
Residing at 607, MHADA Bldg.	]	
Kokani Agar, Antop Hill,	]	
Wadala East, Mumbai 400 037	]	
At present lodged at Yerawada Prison	]	Applicant/Original
		Accused No.1

Vs.

The State of Maharashtra	]	
At the instance of Wadala TT	]	
Police Station, through Ld. P.P.	]	
High Court, Bombay	]	Respondent

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Mr.A.H.H. Ponda Advocate i/b Mallika A. Ingale Advocate for Applicant
Dr. F.R.Shaikh A.P.P. for the State

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**CORAM : SMT.V.K.TAHILRAMANI AND
SHRI.B.P.COLABAWALLA, JJ.
DATED : APRIL 09, 2015**

P.C.:

1 Heard the learned counsel for the applicant and the learned A.P.P. for the State.

2 By judgment and order dated 9.12.2014, the applicant has been convicted under Sections 498-A read with Section 34 and 304-B of IPC. The applicant / original accused

no.1 Rajesh has now preferred this application for bail. It is the prosecution case that deceased Renuka was married to the applicant on 12.12.2008 and on 16.4.2011 Renuka committed suicide on account of harassment and ill-treatment meted out to her on account of demand of money by the applicant and other accused.

3 The evidence of P.W. 1 Khushalrao who is the father of Renuka, shows that her marriage took place on 12.12.2008. Since January, 2010 the accused started illtreating Renuka. He has stated that Rajesh asked Renuka to bring Rs.5 lakhs from her father i.e. Khushalrao as they wanted to purchase another house in MHADA. Khushalrao could not pay the amount, on account of this, the accused subjected Renuka to cruelty. Thereafter Khushalrao has stated that the applicant along with other accused caused burn injuries to both the hands of Renuka by hot iron rod. She was treated for the injuries. Renuka informed them about this fact on phone. Thereafter the evidence of Khushalrao shows that after delivery of his daughter took place, he went to leave Renuka and her daughter at the house of the accused. At that time, the

applicant Rajesh and his mother Narmada asked him whether he had brought the money with him. Khushalrao told them that since he had spent a lot of money for the delivery of his daughter, he did not have money. The accused persons told him that they wanted to purchase house from MHADA for which they required money. In the presence of Khushalrao, the applicant assaulted Renuka. Then Khushalrao called maternal uncle and maternal aunt of the applicant and told them that they should tell the applicant not to behave in such a manner or else he will approach the police. The maternal uncle and maternal aunt told Khushalrao that they would pacify Rajesh and Khushalrao should not go to the police. Then Khushalrao left his daughter Renuka with her minor daughter at the house of the applicant and he went to his native place. Khushalrao has stated that two months thereafter there was marriage of cousin brother of the applicant at Nashik. He went to attend the said marriage with his wife and son. They had taken with them new clothes to offer the same to the accused. At that time, accused Rajesh assaulted Renuka in relation to the dispute regarding the new clothes. The evidence of Khushalrao further shows that just four days prior to the incident i.e. on

12.4.2011 the applicant and other accused tried to pour kerosene on Renuka and they tried to kill her. Renuka informed this fact to Khushalrao on phone. Renuka also told Khushalrao that he should arrange to pay money to the accused as per their demand because she was being harassed on this count.

4 The marriage of Renuka and the applicant had taken place on 12.12.2008 and Renuka committed suicide on 16.4.2011 i.e. within seven years of the marriage. The evidence on record shows that just four days prior to death of Renuka the applicant along with other accused tried to sprinkle kerosene on her and tried to kill her as demand for money was not met. In view of the fact that Renuka died within seven years of her marriage, a presumption under Section 113A of the Evidence Act would be raised. In any event, the evidence on record shows that "soon before her death" Renuka was subjected to harassment as demand for money was not met. In such case, it can be presumed that the applicant abetted her suicide.

5 The Supreme Court in the case of **State of Maharashtra Vs. Rajendra and others; 2014 SCC OnLine SC 550**, has observed that "as far as expression `soon before her death' is concerned, no definite period has been indicated and the expression `soon before her death' is not defined. Determination of period which can come within the terms `soon before' is left to be determined by the Court depending upon the facts and circumstances of each case". In the present case, just four days prior to the death of Renuka, she was harassed and ill-treated and the applicant tried to pour kerosene on her on account of demand of money not being met. From this incident, it can be said that 'soon before her death' Renuka was subjected to cruelty and harassment by the accused in connection with demand for dowry.

6 Looking to the evidence on record, we do not think that this is a fit case to grant bail. Accordingly, the application is rejected.

[SHRI.B.P.COLABAWALLA, J.] [SMT. V.K.TAHILRAMANI, J.]