

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1679 OF 2015

Vellumurgan Mani

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Ms. Anjali Patil for Applicant

Mr. Arfan Sait APP for the State.

Ms. Vaishali Kamble, P.S.I. R.C.F.

Police Station

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : OCTOBER 27, 2015.

PC :

Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is arrested on 21/02/2015 in crime no. 49 of 2015 registered at R.C.F. Police Station, Thane.

2) It is the case of prosecution that on 20/02/2015, wife of the applicant had committed suicide in her matrimonial house. Applicant got married to her only on 05/02/2015. On 21/02/2015, brother of the deceased lodged a report at R.C.F. Police Station alleging therein that his sister Anbalgi was in love with present applicant for two years. Both the families had decided to get them married. The betrothal ceremony was performed about one and half year ago. That the applicant had then gone to the Gulf country. He returned after

ism

three month on vacation. The parents of Anbalgi were insisting upon marriage. Applicant had made every attempt to delay the marriage. It was reliably learnt that he is in love with another woman, therefore, parents of Anbalgi were insisting upon an early marriage. That Anbalgi and her relatives had decided to lodge a report against the applicant. They had taken the applicant to the police station and at that time, applicant had agreed to get married to Anbalgi. Accordingly, applicant got married to Anbalgi on 05/02/2015 in Bandra Court.

3) It is alleged in the F.I.R. that soon after marriage, a discordant note had struck between the couple and there were intermittent quarrels. That the applicant used to assault his wife. On 20/02/2015 at about 7.45 p.m., complainant had learnt from his friend that Anbalgi was being taken to the hospital by members of her matrimonial family. That she had died before she was taken to the hospital. On the basis of the said report, crime no. 49 of 2015 was registered at R.C.F. Police Station against present applicant for offences punishable under section 498 (A) and 306 of Indian Penal Code. Applicant had filed an application before this Court under section 439 of Code of Criminal Procedure, 1973. Learned counsel for the applicant at that stage,

upon instructions, had withdrawn the application on 08/06/2015.

4) Taking into consideration the facts of the case, liberty was granted to renew the prayer for bail after three months from 08/06/2015. Hence, present application.

5) Perused the papers of investigation. The post-mortem notes clearly indicate that cause of death is due to Asphyxia with ligature mark on neck and contusion on left arm and right leg.

6) Learned counsel for the applicant submits that applicant can at the most be tried for offence punishable under section 498 (A) of Indian Penal Code. That it is seen from the allegations in the F.I.R. that Anbalgi was rather assaulted by her husband intermittently.

7) Perused the statement of applicant which was recorded by the Investigating Officer just before his arrest. Although, the said statement is not admissible, it can be accepted as an explanation under section 106 of the Indian Evidence Act as it has been recorded soon after the incident and before the arrest of the present applicant. Applicant has disclosed to the police that on 20/02/2015, there was a quarrel between the couple, he could not control his rage and therefore had assaulted her with fist on her arm and hence, there

are contusions noticed in the post mortem notes.

8) Learned counsel for the applicant rightly submits that although the fact of assault is admitted, it cannot be said that applicant had any knowledge that due to trifling incident, his wife would commit suicide. It cannot be said that applicant had either abetted, instigated or facilitated the commission of suicide. In fact, applicant was not at home when his wife had committed suicide by hanging and he was informed by his cousin that his wife had committed suicide.

9) Taking all these aspects into consideration, applicant deserves grant of bail. Learned Sessions Judge shall not be influenced by the observations made herein above at the time of trial.

ORDER

- (i) Application is allowed.
- (ii) Applicant be enlarged on bail on furnishing P. R. bond in the sum of Rs. 15,000/- and one or two sureties in the like amount.
- (iii) Applicant shall report to R.C.F. Police Station on every alternative Sunday between 10.00 a.m. to 12.00 noon.
- (iv) Applicant shall surrender his passport to the Investigating Officer

and shall not leave Bombay till the conclusion of trial.

(v) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)