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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1700 OF 2015**

Mihir Ayub Khan

...Applicant

Versus

State of Maharashtra

...Respondent

Ms.Mallika A. Ingale i/b Bhanudas L. Jagtap, for the Applicant

Mr.S.H.Yadav, A.P.P for the Respondent-State

Mr.Sushil Upadhyay, for the Intervener.

PSI- Ram Bhosale, MHB Colony Police Station.

CORAM : REVATI MOHITE DERE, J.

DATE : 28th OCTOBER, 2015

P.C. :

1. Heard learned Counsel for the applicant, learned counsel for the intervener and the learned A.P.P.

2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 304 of 2014, registered with the MHB Colony Police Station, for the alleged offences punishable under Sections 498(A), 306 r/w 34 of the Indian Penal Code.

3. The complainant is the father in law of the applicant. It appears from the prosecution case, that it was an intercaste marriage and that the deceased – Arita i.e. daughter of the complainant had run away from home with the applicant, without informing her parents. On 21st August, 2013 the complainant's daughter – Arita went missing from her parents house, pursuant to which a missing complaint was lodged on 28th August, 2013 with the Silvasa Police Station. It is stated in the said complaint dated 28th August, 2013, that they had learnt from Arita's friends that she was married to the applicant and had decided to settle down with him; that they informed the applicant's parents, who told them that they had performed court marriage and were adamant to live by themselves. It is stated that Arita though 22 years old, had gone against their will. On 4th January, 2014, the complainant received a phone call from the mother of the applicant stating that they have brought Arita back, and that they should pick her up from the Vapi Railway Station and take her home. On 19th January, 2014, again the complainant's daughter – Arita left her parents house, on her own accord, pursuant to which, the complainant again lodged a missing complaint with the Silvasa Police Station on 21st January, 2014. After about 10 days, Arita is stated to have called the complainant and told

him that she was staying in CKP Colony with the applicant. On 4th May, 2014, it is alleged by the complainant that his wife called him, when he was in Bangkok, and informed him that she met Arita and that Arita was residing with her husband at SRD Colony, Goregaon, Mumbai on rental basis. He has stated that his daughter – Arita disclosed to his wife that the applicant was assaulting her everyday and was demanding that she should bring money from her parents house to purchase a flat. On 11th November, 2014, the complainant received a call from the applicant stating that the deceased had committed suicide, pursuant thereto, the door where the deceased committed suicide was broken open and the deceased was found hanging. Accordingly, an FIR was lodged on 17th November, 2014 as against the applicant by the father of the deceased.

4. Learned Counsel for the Applicant submitted that the 1st missing complaint which was lodged with the Silvasa Police Station dated 28th August, 2013 it is alleged that they learnt from her friend that the Arita had decided to settle down in life with a boy from Mumbai i.e. Mahir Khan. They had stated that their daughter is 22 years old and as per law she is legal to take her own decisions and they were interested in finding

out her whereabouts only to see that she was in good hands. After the missing complaint was lodged, after almost four months, the deceased again went back to her parent's house, on 4th January, 2014 and within few days i.e. on 19th January, 2014, Arita left her parents house to go to the applicant's house. In the missing complaint lodged on 21st January, 2014, which is on page 40 of the application, it appears that although Arita was living happily with them; that she was communicating with her husband and in-laws often. He has stated that as he had been to Pune on 18th and 19th January, his daughter had left a letter stating that she cannot be without her husband and left the house on 19th January evening. However, a missing complaint was lodged as the Arita had not reached her husband's or in-laws house and as they were worried about her whereabouts.

5. Learned Counsel for the Applicant submitted that the complainant has improved his case from the time the missing complaint was lodged, thereafter the FIR and then the supplementary statement. According to the learned counsel, the deceased was a victim of drug addiction. She submitted that the investigation is complete and charge-sheet is filed.

6. Learned APP opposed the bail application. He stated that there are several statements which show that the applicant was assaulting the deceased and considering the nature of allegations, qua the present applicant, the applicant does not deserve to be enlarged on bail.

7. Learned Counsel for the intervener supports the submission advanced by the learned APP. He submitted that the applicant would brutally assault the deceased as is evident from the statement of the witnesses.

8. Perused the papers. It appears that investigation is complete and charge sheet is filed. The trial is not likely to commence in the immediate near future. Considering the aforesaid, the applicant is enlarged on bail on the following terms and conditions :

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount;
- (ii) The applicant shall attend the concerned Police Station on the

first Saturday of every month between 10:00 a.m. to 11:00 a.m., till the conclusion of the trial;

(iii) The applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(iv) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(v) The applicant to cooperate in the conduct of the trial;

(vi) It is made clear that if there is breach of any of the conditions as stated above, the prosecution shall be at liberty to seek cancellation of Applicant's bail.

9. The Application is allowed in the aforesaid terms and is accordingly disposed of.

10. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

11. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.