

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.1202 OF 2016

Samadhan Rambhau Dhormare
Age 29 years, Occu. Nil.,
R/o Modha Bk. Taluka Sillod,
District Aurangabad

..Applicant

Versus

The State of Maharashtra
(at the instance of Sillod (Rural)
Police Station)

..Respondent

Mr A.K. Bhosale, Advocate for applicant
Mr U.S. Mote, A.P.P. for respondent

CORAM : N.W. SAMBRE, J.

DATE : 4th March 2016

PER COURT

Heard.

2. The applicant is seeking regular bail in Sessions Trial No.409 of 2012, pending on the file of learned Sessions Judge at Aurangabad.

3. The prosecution case against the applicant initially was for the offence punishable under Sections 302, 498-A, 303 of Indian Penal Code, as the applicant's marriage was performed on 13th March 2012 with the deceased Pooja.

4. After the investigation was completed and charge-sheet was filed, since the applicant was charged for an offence punishable under Section 302 of Indian Penal Code, his bail application was rejected and trial was expedited by this Court.

5. At the time of dictating the judgment, learned Sessions Judge noticed that the accused-applicant to be proceeded for an offence punishable under Section 306 of Indian Penal Code. As such, charge under Section 302 of Indian Penal Code was altered to 306 of the Indian Penal Code. Same has prompted the present applicant to move an application for grant of regular bail before the learned Sessions Judge. The learned Sessions Judge rejected the said application on 14th February 2016, as such present application for grant of regular bail.

6. Mr Bhosle, leaned Counsel for the applicant would urge that the applicant is entitled for regular bail in the aforesaid trial, as he is behind bars since 21th August 2012, i.e. for more than 3½ years. He would then submit that the offence punishable under Section 306 of the Indian Penal Code i.e. abetment to suicide is punishable with imprisonment for ten years. According to learned Counsel for the applicant since the trial is already expedited, further detention of the applicant is not necessary.

7. Learned A.P.P. opposed the application on the ground that once the charge is amended and the prosecution is not interested in placing on record any additional evidence, the trial could be concluded expeditiously. He would submit that the learned Sessions Court, while rejecting the application was alive to the said fact and as such, has rejected the bail application. According to him, the application be rejected.

8. In the factual matrix of the present case, it is to be noted that the victim has succumbed to the injuries within three months from the date of her marriage and as such, burden lies on the applicant to be discharged in the case, that he is not involved in the crime in question. It is required to be noted that the applicant was already detained for more than 3½ years and the maximum punishment is imprisonment for ten years, whereas minimum punishment is not prescribed.

9. The applicant, as such will be required to place on record the evidence of his part to prove that he is not guilty of the offence alleged against him. Reliance can be placed on Section 113-A of the Evidence Act.

10. In my opinion, the applicant in the above referred background, particularly having regard to the fact, he is now require to face the trial for an offence punishable under Section 306 of the Indian Penal Code, deserves to be released on bail on following terms:

11. The applicant be released on bail in Sessions Case No.409 of 2012, (arising out of C.R.No.I-96 of 2012, registered at Sillod Rural Police Station for the offences punishable under Section 302 [now altered to Section 306], 307, 498-A, 323, read with sec.34 of Indian Penal Code), pending on the file of learned Sessions Judge at Aurangabad, upon furnishing P.R. Bond of Rs.25,000/- with one surety in the like amount.

12. The applicant to file an undertaking that he shall attend each and every date of the sessions trial and the Sessions Court to decide the trial expeditiously, as directed by this Court earlier.

13. Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

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