

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

**920 CRIMINAL APPLICATION NO. 4749 OF 2016
WITH
APPLN/4864/2016
IN
APPLN/4749/2016**

DATTA S/O DINKAR WAGHMARE

VERSUS

THE STATE OF MAHARASHTRA

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Mr. S.J.Salunke, Advocate for Applicant.

Mr. S.M.Ganachari, A.P.P. for Resp. – State.

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CORAM : A.M.BADAR, J.

DATE : 31st AUGUST, 2016

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PER COURT :

1. The applicant/accused in Crime No. 121/2016 registered at Wadwani police station, Dist. Beed for the offences punishable u/ss 304-B,306,498-A,504,506,507 read with 34 of the Indian Penal Code and u/ss 3 and 4 of the Dowry Prohibition Act, 1961 at the instance of Angad Janardhan Gaikwad by this application is praying for releasing him on bail.

2. Heard learned counsel for the applicant. He argued that necessary investigation of the crime in question is already over and even according to the prosecution case, remaining amount of dowry was to be paid at the time of Diwali festival. However, wife of the present applicant died by jumping in the well in the field of her parents in July. Hence, according to the learned counsel for the applicant, further pre-trial detention of the applicant is not warranted.

3. Learned A.P.P. opposed the application by contending that the crime in question is serious and within 5 years of her married life, Sunita died in the un-natural circumstances. He further argued that just before commission of suicide, there was telephonic call to her by the applicant and after ending that call, she jumped in the well. Learned A.P.P. submitted that considering the heinous nature of the crime in question, the applicant is not entitled to be released on bail prior to filing of the charge sheet.

4. Perused papers of investigation. According to the prosecution case, Sunita married on 28/02/2016 and she committed suicide by jumping in the well situated in the field of her father on 04/07/2016. Thus, within 5 years of her marriage with the applicant, Sunita died suicidal death. Her death is otherwise than in normal circumstances.

5. Perusal of F.I.R. of father of the deceased reveals that balance amount of dowry i.e. Rs. 1 Lakh was agreed to be paid at the time of Diwali festival. Prior to that, on account of

Akhadi festival, Sunita returned to her parents house. The incident in question happened on 04/07/2016. She came to the field of her father at about 4.00 p.m. on that day while talking on the cell phone and then jumped in the well, resulting in her death.

6. In order to make out *prima facie* case for the offence punishable u/s 304-B of the Indian Penal Code, death of the victim is required to be proved by burns or injuries or otherwise than in normal circumstances, within 7 years of the marriage. It is also required to be established that the deceased was subjected to cruelty or harassment soon before her death. In the instant case, apart from Section 304-B, Section 306 of the Indian Penal Code is also invoked by the prosecution. Section 306 of the Indian Penal Code requires *means-ria* as well as knowledge that the victim may commit suicide.

7. In the case in hand, papers of investigation reflects that after suicide by Sunita, her father lodged report of accidental death. In pursuant to that report, police visited the spot and recorded spot panchanama. In other words, there were tons of opportunities with the informant to lodge F.I.R. However, F.I.R. came to be lodged on 08/07/2016.

8. Be that as it may, in the case in hand, necessary investigation appears to have been done. Statements of witnesses are recorded, necessary seizure is effected. The formality of filing of charge sheet appears to be pending. It is

trite that till disposal of trial on merit, every accused is supposed to be innocent. The trial of the case will take its own time. Considering these facts, further pre-trial detention of the applicant is not warranted. Hence, the following order.

(i) The application is allowed.

(ii) The applicant Datta s/o Dinkar Waghmare in Crime No. 121/2016 registered at Wadwani police station, Dist. Beed for the offences punishable u/ss 304-B, 306, 498-A, 504, 506, 507 read with 34 of the Indian Penal Code and u/ss 3 and 4 of the Dowry Prohibition Act, 1961 be released on bail on executing P.R. Bond of Rs. 15,000/- [Rupees Fifteen Thousand] and on furnishing surety in the like amount.

(iii) As a condition of this Order, the applicant shall not extend any threat, inducement or promise to the persons acquainted with the facts of the accusation so as to dissuade them from disclosing the same either to the police or the Court.

(iv) The applicant shall not tamper the evidence of the prosecution.

(v) The applicant to co-operate the trial Court in the expeditious disposal of trial against him in the event of filing of charge sheet against him.

9. Criminal Application stands disposed of.

10. In view of disposal of main application, pending
Misc. Criminal Application stands disposed of.

[A.M.BADAR, J.]

KNP/Cr.Apln. 4749.2016