

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

CRIMINAL APPLICATION NO.5018 OF 2016

Rahul Balasaheb Lolage

.. Applicant

Versus

The State of Maharashtra

.. Respondent

Mr.Nitin V. Gavare, Advocate for the applicant

Mr.R.B.Bagul, APP for the respondent/State

CORAM : V.L.ACHLIYA, J.

DATED : 06.10.2016

P.C. :-

1. The applicant has moved this application seeking bail during pendency of this appeal on the ground set out in detail in the application.

2. The applicant was tried for the offence punishable under Sections 498-A and 306 of the Indian Penal Code alongwith three accused i.e. mother and two married sisters of the applicant/accused No.1.

2. On conclusion of trial the learned Additional Sessions Judge, Ahmednagar acquitted the accused Nos.2 to 4 and convicted the applicant/accused No.1 for committing offence punishable under Section 498-A and 306 of the Indian Penal Code and sentenced him to suffer rigorous

imprisonment for two years and to pay fine of Rs.1000/- in default to suffer rigorous imprisonment for two months for the offence punishable under Section 498-A and sentenced to suffer rigorous imprisonment for seven years and to pay fine of Rs.5000/- in default to suffer rigorous imprisonment for six months, for the offence punishable under Section 306 of the Indian Penal Code.

3. Learned counsel for the applicant strenuously contended that there is no evidence to support the conviction under Section 306 of the Indian Penal Code. He has submitted that even if it is accepted that certain amounts were credited in the account of applicant/accused No.1 still it cannot be stated that there was a persistent demand of dowry and accused No.1/applicant aided and abetted the commission of suicide by deceased. He has referred the testimony of P.W.1 father of the deceased. Learned counsel pointed out that matrimonial life of the applicant was cordial and they were celebrating various festivals, birthday and also visiting the various places like Mahabaleshwar, Shirdi, Wani etc.. which reflects the matrimonial life of the applicant with deceased was happy and was cordial and there was no harassment and ill-treatment to deceased of such a nature to infer that the applicant has aided abetted the commission of suicide by deceased. He has further

submitted that the applicant/accused No.1 was on bail during the trial. The conviction awarded is of seven years. There is no likelihood that appeal would be heard within short time. He has therefore urged to release the applicant/accused No.1 on bail.

4. Learned APP has strongly contended that there is a strong case against the applicant/accused No.1. The amount as demanded by the applicant deposited in the bank account of the applicant/accused No.1. One of such last deposit was made on 13.02.2012 which was about 16 to 17 days prior to the date on which deceased has committed suicide. He further submits that Prosecution witness has categorically stated that few days prior to the incident he visited the house of applicant/accused No.1 and at that time his daughter was found nervous and he was not properly treated by the applicant/accused No.1.

6. Having appreciated the submissions advanced in the light of evidence adduced in the matter and reasons and findings recorded by the learned Trial Court I am of the view, pending disposal of this appeal the applicant deserves to be released on bail. The offence for which the applicant/accused No.1 is convicted is not punishable for life. The applicant was on bail during trial. It will have to be considered in appeal as to whether the

alleged acts attributed to the applicant/accused No.1 constitutes an offence under Section 306 of the Indian Penal Code. In this view I am inclined to allow the application. Hence the following order.

ORDER

i. Application is allowed in terms of prayer clause (B).

ii. Pending disposal of appeal the applicant be released on bail on furnishing fresh bail bond in the sum of Rs.50,000/- with one surety in the like amount on following conditions.

(a) Applicant shall mark his attendance before the Kotwali Police Station Ahmednagar on 1st day of each month between 10 a.m. to 11 a.m.

(b) The applicant shall furnish the names and addresses of his 3 close relatives with phone numbers.

(c) The applicant shall not cause threat to complainant and other prosecution witnesses.

(5)

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(d) In the event of change in address the applicant shall intimate concerned police station as well as this court.

iii. In the event of breach of any of the conditions, the bail granted to the applicant/accused No.1 shall be liable to be canceled.

[V.L.ACHLIYA,J.]