

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

910 CRIMINAL APPLICATION NO. 5764 OF 2016

KISHAN S/O BABULAL GANGAVE/GANGE

VERSUS

THE STATE OF MAHARASHTRA

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Mr. S.R.Andhale, Advocate for Applicant.

Mr. S.B.Yawalkar, A.P.P. for Resp. – State.

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CORAM : A.M.BADAR, J.

DATE : 21st, OCTOBER 2016

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PER COURT :

1. The applicant/accused in Crime No. 299/2016 registered at Pachod police station, Tq. Paithan, Dist. Aurangabad for the offences punishable u/ss 498-A,304-B,323,504 read with 34 of the Indian Penal Code, by this application is praying for releasing him on bail.

2. Heard the learned counsel for the applicant as

well as the learned A.P.P. Learned A.P.P. argued that the death was within 7 years of marriage of the applicant with deceased Chhaya. She died suicidal death by consumption of poison on 03/09/2016. According to the learned A.P.P., the deceased was subjected to cruelty soon before her death by the accused persons.

3. Perused the papers of investigation. F.I.R. of the crime was registered at the instance of Rakhamaji Shamlal Maher – father of deceased Chhaya. She married present applicant on 10/05/2014 and died suicidal death on 03/09/2016, apparently by consumption of poison, as postmortem report shows that stomach of the dead body was containing 100 ml. dark brownish coloured fluid with abnormal smell perceived, mucosa congested.

4. The allegations against present applicant, as seen from the F.I.R. as well as statements of parental relatives of the deceased are to the effect that everything was going-on smoothly in married life of Chhaya for a period of one year. Thereafter, her husband i.e. present applicant used to beat her by slap and fists blows after consumption of liquor. So far as

present applicant is concerned, it is alleged by prosecution witnesses that along with his relatives, the applicant was demanding money from his deceased wife. So far as allegations about cruel treatment are concerned, those are to the effect that there use to be abuses to the deceased on the ground that she was not well-worse with cooking. The applicant, according to the prosecution case, was assaulting her after consuming liquor. In order to prove legal cruelty, acts attributed to accused persons must be reflecting intense miseries and woes strongly steering up feelings in the victim that life is now not worth living and she should die. Provisions of Section 498-A of the Indian Penal Code envisages intention to drag or force a woman to commit suicide by unabated persistent and grave cruelty. Similarly, Section 306 of the Indian Penal Code requires cruel treatment to a married woman soon before her death for and on account of demand of dowry from her in-laws. Viewing from this aspect, I am of the opinion that further pre-trial detention of the applicant in the crime in question is not warranted. Even otherwise, substantial part of the investigation is already over. Hence, the following order.

- (i) The application is allowed.
- (ii) Applicant Kishan s/o Babulal Gangave/Gange in Crime No. 299/2016 registered at Pachod police station, Tq. Paithan, Dist. Aurangabad for the offences punishable u/ss 498-A,304-B,323,504 read with 34 of the Indian Penal Code be released on bail on executing P.R. Bond of Rs. 20,000/- [Rupees Twenty 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.

[A.M.BADAR, J.]