

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

CRIMINAL APPLICATION NO. 5991 OF 2016

Yogesh Walmik Magar .. Applicant
Age. 24 years, Occ. Agri.,
R/o. Anchalgaoon, Tq. Vaijapur,
Dist. Aurangabad.

Versus

The State of Maharashtra .. Respondent

Mr.R.R. Karpe, Advocate for the applicant.
Mr.S.J. Salgare, APP for respondent/State.

**CORAM : A.M. BADAR,J.
DATED : 25.10.2016**

P.C. :-

1. The applicant/accused in Crime No. I-104 of 2016 registered with Shivoor Police Station, Tal. Vaijapur, Dist. Aurangabad, for offences punishable under sections 498(A), 304(B) read with section 34 of the Indian Penal Code, by this application, is praying for releasing him on bail, after filing of the charge-sheet.

2. Heard learned Counsel for the applicant as well as learned A.P.P.

3. Learned A.P.P. opposed the application by contending that within few months of her married life,

Kalpna died because of harassment by her husband i.e. applicant – Yogesh Walmik Magar and his relatives.

4. I have considered the rival submissions and perused the charge-sheet. The crime in question is registered on the basis of report lodged by Kantabai Bharad on 26.07.2016. She is mother of deceased Kalpna Yogesh Magar. The F.I.R. itself shows that the marriage was settled by an agreement to give dowry of gold ornament weighing one tola and that dowry was paid or delivered at the time of the marriage of Kalpna with applicant Yogesh. Requirement of section 304-B of the Indian Penal Code is harassing or subjecting married woman to cruelty or on account of demand of dowry and death of married woman within seven years of her marriage.

5. So far as allegations of cruelty are concerned, charge-sheet shows that the applicant/accused was not liking his wife i.e. deceased Kalpa and he used to utter that Kalpna is black and dwarf and therefore he does not like her. Other averments are to the effect that in the marriage proper hospitalities were not provided and gas stove was not given. Similarly, there are averments that the applicant and in-laws were asking Kalpna to bring amount of Rs.1 lakh. However, what was happened to

Kalpana on account of this demand is not reflected in the F.I.R. as well as statements of witnesses. Omnibus statement that the applicant and his relatives were harassing her is made. Ultimately, Kalpana died on 26.07.2016 and her dead body was found in a well in the field.

6. Considering this nature of averments and evidence against present applicant, after filing of charge-sheet, his further pre-trial detention is not warranted. As such the following order :-

O R D E R

- i) The application is allowed.
- ii) Applicant/accused - Yogesh Walmik Magar, in Crime No. I-104 of 2016 registered with Shivoor Police Station, Tal. Vaijapur, Dist. Aurangabad, for offence punishable under sections 498(A), 304(B) read with section 34 of the Indian Penal Code, be released on bail on executing P.R.Bond of Rs.25,000/- [Rupees Twenty Five Thousand] and on furnishing surety in the like amount.
- iii) As a condition of this Order, the

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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.

[A.M. BADAR, J.]