

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 1780 OF 2016

Vinod Cheduram Yadav.	... Applicant.
Versus	
The State of Maharashtra.	... Respondent.

Mr. Khan Fakhruddin, advocate for Applicant.

Mr. S.H. Yadav, APP for State.

Mr. S.G. Bajbalkar, PSI, Kamothe Police Station, Navi Mumbai.

**CORAM : SMT. SADHANA S. JADHAV,J
DATE : SEPTEMBER 22, 2016**

P.C.:

1 Heard the learned Counsel for the applicant and the learned APP for State. Perused the papers.

2 This is an application under Section 439 of the Code of Criminal Procedure, 1973. The applicant herein is arrested on 14/5/2016 in Crime No. 99 of 2016 registered at Kamothe Police Station for offence punishable under Section 498A and 304B of the Indian Penal Code. The investigation is completed and charge-sheet is filed.

3 It is the case of the prosecution that on 14/5/2016 the present applicant had approached the police station and had lodged the report that he was married to Alka. The couple is blessed with two children. That on 13/5/2016 he returned home from his work. He had some alcohol before returning. He had brought some games for his daughters. Since he was under the influence of alcohol, there was a quarrel between him and his wife Alka. He went to sleep at about 11 to 11.30 p.m. in the hall. On 14/5/2016 he woke up in the morning at 6.10 a.m. and found his wife hanging to the rafter. She had committed suicide. There was bleeding from her mouth. He picked her up and kept on the bed and tried to revive her life by pumping on her chest. He realised that she was unconscious. He immediately informed about the same to Kamothe Police Station. He had taken his wife in the police jeep to the hospital, where she was declared dead. On the basis of the statement of the applicant, A.D. No. 331 of 2016 was registered under Section 174 of the Code of Criminal Procedure, 1973.

4 It appears from the papers of investigation that the scene of offence panchanama, as well as initial investigation such as inquest panchanama and other formalities were completed in the A.D. Enquiry. That a letter was seized from the scene of offence. It appeared to be a suicidal note. That the parents were informed about the said incident.

5 That on 14/5/2016 the brother of the deceased namely Amit Kumar Yadav lodged a report at the police station that his sister was harassed and ill-treated at the hands of the applicant. The deceased was insulted on account of economic status of her parents. The brother i.e. the first informant has narrated the ill-treatments meted out to his sister at the hands of the applicant. It is specifically stated that on 13/5/2016 at about 9.30 p.m. the applicant had informed the sister-in-law of the deceased that "Pinky is no more". The first informant had called upon the applicant. At that time, the applicant was under the influence of alcohol. That the first informant had also told him that he would talk to him in the morning. On 14/5/2016 the mother of the first informant informed him that police constable

Gunjal had called upon her and informed her that Alka had committed suicide by hanging. On the basis of the said report, Crime No.99/2016 was registered against the applicant for offence punishable under Section 306 and 498A of the Indian Penal Code.

6 Perused the papers of investigation. Column No. 17 of the post mortem notes would show that the deceased had sustained contused lacerated wounds over occipital region admeasuring 2.5 cm. X 1 cm. X bone deep. Contusion to occipital region of brain (cerebellum) and intra-cranial hemorrhage, under scalp haematoma of size 5 x 4 cm. **Ligature mark seen over anterior aspect of neck 24 cm x 2.5.cm. Incomplete, oblique, diffused in nature. The deceased has also sustained internal injuries to her head. The opinion is given that all the injuries are antemortem injures.**

7 The learned Counsel for the applicant submits that the physical constitution of the applicant is very frail and therefore, he could not bring the body of the deceased from the hanging position and in the course of lowering the dead body his wife has sustained head injury.

According to the learned Counsel, there is a suicidal note which clearly indicates that it was because of mental harassment and physical abuse she had committed suicide. It is also submitted that there is no demand for dowry soon before her death and therefore, the prosecution ought not to have filed charge-sheet under Section 304B of the Indian Penal Code.

8 This Court cannot be oblivious of the fact that A.D. No. 33 of 2016 was registered at the behest of the applicant and the applicant had not explained the head injury at that time. Neither he had stated in the A.D. report that he had taken help of any neighbour to lower the body from the loop. The head injuries remained unexplained.

9 This Court also cannot be oblivious of the fact that on 13/5/2016 itself, the applicant had called upon the sister-in-law of the deceased and had informed her that his wife is no more. Only when the first informant tried to talk to him, he had stated that there was nothing serious but he was under the influence of alcohol and

therefore, the event in the A.D. report that he found her hanging on 14/5/2016 cannot be believed.

10 Moreover, the post mortem on the dead body was conducted on 14/5/2016 at 6.25 p.m. It is pertinent to note that rigor mortis had fully developed in upper limbs and lower limbs. There was lividity over back and the lividity was fixed all over. Moreover, the story concocted by the applicant that when he found her hanging, there was bleeding injuries from her mouth also appears to be fabricated.

11 Genuineness of the suicide letter has to be ascertained. The letter purportedly to be returned by the deceased has been sent for hand-writing examination and the report is awaited. This is a case of circumstantial evidence. The applicant being husband of the deceased is bound to give an explanation under Section 106 of the Indian Evidence Act. The conduct of the accused has to be appreciated under Section 8 of the Indian Evidence Act. At the very threshold, the story concocted by the applicant while lodging A.D.

report would clearly indicate that the death of his wife has occurred in suspicious circumstances and it may not be a case of simple suicide. Hence, the applicant does not deserve to be enlarged on bail. The application being sans merits stands rejected.

12 However, it is made clear that the observations made herein above are prima facie in nature and are restricted to the application under section 439 of the Code of Criminal Procedure, 1973. The learned Sessions Judge shall not be influenced by the same at the time of trial.

13 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)