

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1870 OF 2016

Swati wd/o Swapnil Patole

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Amol Jaltare i/b Mr. Piyush Pande Advocate for Applicant.

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

Mr. S. T. Jadhav, API Panvel City Police Station.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : SEPTEMBER 28, 2016.

PC :

1) Heard. This is an application under section 439 of the Code of Criminal Procedure, 1973. Applicant herein is arrested on 03/08/2016 in crime no. 241 of 2016 registered at Panvel City Police Station for offence punishable under section 306, 420 r/w 34 of the Indian Penal Code.

2) It is the case of the prosecution that the husband of the present applicant lodged the F.I.R. alleging therein that present applicant had developed illicit intimacy with a close relative of her husband. That according to the complainant, the husband of the applicant, committed suicide on

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25/06/2016. The learned APP submits that the suicide note was found in which the husband of the applicant has specifically stated that the applicant had developed illicit relation with his relative and in collusion with each other, they used to humiliate him and had harassed him for almost 6 – 7 years. That applicant had ignored her marital obligations.

3) The learned counsel for the applicant firstly submits that it cannot be said that applicant herein had facilitated, abetted or instigated the commission of suicide. It cannot be said that the act of developing intimacy with third person or neglecting marital obligations, can be taken up as abettment to commit suicide. It is secondly submitted that applicant is in custody for more than one month and that by virtue of proviso to section 437 of the Code of Criminal Procedure, 1973, applicant would be entitled to be enlarged on bail.

4) Taking into consideration the nature of allegations, papers of investigation and the submissions advanced across the bar, applicant deserves to be enlarged on bail. However, the observations made herein above are *prima facie* in nature and are restricted to an application under section 439 of the Code of Criminal Procedure, 1973 and shall not be considered for quashing of F.I.R., discharge application or at the time of trial.

ORDER

- (i) Application is allowed.
- (ii) Applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs. 15,000/- with one or two sureties in the like amount.
- (iii) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)