

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1965 OF 2016

Shri Rahul Ashok Dhole	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr. A.P.Mundargi, Senior Counsel i/b. Mr. Anand S. Patil, Advocate for the applicant.

Mr. Prashant Jadhav, APP., for the State.

CORAM: SMT.SADHANA S.JADHAV, J.

DATE : 15th November, 2016.

P.C.

Heard. This is an application under Section 439 of Cr.P.C.

The applicant herein is arrested on 9.5.2016 in Crime No.95 of 2016 registered at Kamothe Police Station, New Mumbai. After completion of investigation, charge-sheet is filed on 7.7.2016. The applicant has been charge-sheeted for the offences punishable under Sections 304B, 498A read with Section 34 of the Indian Penal Code.

2. It is the case of the prosecution that on 3.5.2016, the sister-in-law of the present applicant namely Mrs. Pushpa Dhole was taken to MGM Hospital at Kamothe. She was brought dead. The Casualty Medical

Officer of the MGM Medical College & Hospital informed about the same to the police on the basis of which A.D. No.32 of 2016 was registered at Kamothe Police Station on 3.5.2016. That on 8.5.2016, the brother of the deceased Pushpa lodged a report at the police station contending therein that his sister Pushpa was married to the brother of the applicant namely Amardeep on 15.5.2016 at Solapur. The statement of Amardeep was recorded in A.D. No.32 of 2016. He had disclosed that he had gone out of the house at about 8.30 p.m. and when he returned at 11.30 p.m., he went to the bedroom, he realized that the door of the bedroom was locked from inside. Pushpa did not open the door and therefore the door was broken.

2A. According to the complainant, Amardeep was doing business in real estate the applicant, his brother Amardeep, his parents and other members of the family were ill-treating Pushpa on various grounds, including not being efficient in conducting the domestic chores. That father of the deceased had also attempted to pacify the quarrel between Pushpa and the other members of the family. On 19.3.2010, Pushpa had delivered a baby boy. After six months, Pushpa had returned to her matrimonial abode. According to the applicant, there was a demand of Rs.50,000/- in the year 2010 and Rs.50,000/- in the year 2012. It is also alleged that on account of non-fulfillment of the payment, Pushpa was being harassed by all the

family members. The complainant has stated that on 29.2.2016, an amount of Rs.49,900/- was deposited in the account of Amardeep in ICICI Bank. It is alleged that on 2.5.2016, Pushpa disclosed to her father that on account of demand of money, she is being harassed and ill-treated by all the members of the family. The phone was disconnected. At about 2.30 a.m., Sushma had informed the complainant that Pushpa has died because of heart attack and she has been taken to MGM Hospital. They had been to MGM Hospital. Sushma had subsequently disclosed that Pushpa had committed suicide.

3. On the last occasion, the learned APP had vehemently submitted that in fact, it is not the case of suicidal death. The possibility of homicidal death cannot be ruled.

4. Upon perusal of the scene of offence panchnama, it is clear that Pushpa had committed suicide in her bedroom. The latch was broken and it appears that the door had to be forcibly opened.

5. The learned senior counsel has drawn attention of this Court to the supplementary statement of the complainant which clearly indicates that an amount of Rs.31,500/- was returned by Amardeep. It is also submitted that

Pushpa has died after 7 years of marriage and therefore, it would not be appropriate to draw presumption that it is a case of dowry death. The learned Senior Counsel has also drawn attention of this Court to the statement of son of the deceased there were no any quarrel between the present applicant and the deceased Pushpa. That the applicant was a member of the joint family.

6. In any case, the applicant happens to be the brother-in-law of the deceased Pushpa. Besides the omnibus allegation that all the members of the family were demanding money, there is no specific role attributed to the present applicant. Moreover, Pushpa had died in the bedroom which was latched from inside. It is in these circumstances that the applicant deserves to be enlarged on bail. He is in custody since 9.5.2016. It is made clear that the co-accused shall not claim parity with the present applicant.

7. The observations made hereinabove are restricted to an application under Section 439 of Cr.P.C. and shall not be be considered for the purpose of quashing of FIR, discharge application or at the time of trial.

ORDER

- (i) The application is allowed.
- (ii) The applicant be enlarged on bail on furnishing P.R.Bond in

the sum of Rs.25,000/- with one or two sureties in the like amount.

The application is allowed and disposed of.

(SMT. SADHANA S.JADHAV, J.)