

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1728 OF 2016

Mr. R.G. Rathod, PSI, Mohol Police Station.

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P.C.:

2 This is an application under Section 438 of the Code of Criminal
Procedure, 1973. The applicant herein is apprehending his arrest in
Crime No. 613 of 2016 registered at Mohol Police Station for the

offence punishable under section 302, 498A, 506 of the Indian Penal Code.

3 It is the case of the prosecution that the applicant herein was married to Seema, daughter of Chandrakant Mote, resident of Narkhed in the year 2009. The applicant is serving as a lecturer in Terana Engineering College at Tuljapur and hence, the couple was residing at Tuljapur. It appears that they were living happy married life for first four years. The couple was blessed with a daughter. It is alleged in the FIR that Seema was being harassed by the applicant and he suspected her character. The complainant has stated that on 14/8/2016 he had deputed his nephew to take up Seema on the occasion of Rakhi Purnima festival. However, the applicant had informed that he would personally drop Seema at village Narkhed. The daughter had disclosed to the parents and relative that she has been harassed by the applicant on account of suspicion. She had also disclosed that the applicant abuses her and assaults her under influence of alcohol. On 20/8/2016 the applicant had been to village

Narkhed. He picked up his daughter Shreya and had informed his wife that he would take her on the next day. After his departure, his wife apprehended danger to her life and told to her father about the same. The complainant has convinced his daughter. She had agreed to accompany her husband on 21/8/2016.

4 The complainant has further alleged that on 21/8/2016 the complainant received phone call from Nirmala, mother of the applicant. She informed that in the evening while returning home, the couple had slipped from the motor cycle and that they had met with an accident. The complainant rushed to Khuneshwar. There they learnt that while returning home they had fallen in the well owned by Tatya Sopan Dongre. They had been to the spot alongwith the complainant. Upon enquiry with the people in the village, they learnt that one motor cycle had passed on that road. They peeped into the well and had seen some books floating. The complainant suspected that some untoward incident had happened and that Seema may be in the well. One of the villager jumped into the well and had brought

the dead body of Seema out from the well. The complainant contacted the applicant on his cell phone. The said cell phone was switched off. It is also submitted that none of the family members of the applicant attended funerals. On the basis of the said report, Crime No. 613/2016 was registered against the applicant for offence punishable under Section 302, 498A, 506 of the Indian Penal Code. The applicant was not on the spot.

5 Perused the papers of investigation and more particularly, the photographs taken by the Investigating Officer on the day of the incident. It appears that it was a rough road. It was not necessary to go by the side of the road, as there are stones laid down. The incident had occurred at about 7.30 p.m. A.D. No. 88/2016 was registered. It is pertinent to note that the accident report form clearly shows that the front head lights were broken. The accident had not occurred due to any mechanical defect. The condition of all other parts of the motor cycle was in order. It is pertinent to note that the distance between village Narkhed and the scene of offence is hardly 15 to 16

k.m. The applicant had left the village at about 6 p.m. The scene of offence panchanama would clearly show that the footwear of the deceased were on the road. It cannot be believed that in fit of fall the deceased would remove both the footwear near the well. Footwear of the applicant were also found at the scene of offence. It is clear that the death of Seema had occurred in suspicious circumstances. The possibility that it is a homicidal death, cannot be ruled out. The autopsy was conducted on the dead body at village Mohol.

6 At this stage, conduct of the applicant needs to be taken into consideration. The learned Counsel for the applicant has vehemently submitted that the couple was chitchatting on the motor cycle while the applicant was driving. The applicant had not seen stones by the road side although his wife was cautioning him. In a fraction of second, the motor cycle had fallen in the well. That the applicant had reached the road and was then searching for the wife. He could not find his wife. That he raised hue and cry. Some villagers had reached

the spot. He had not even suspected that his wife had fallen in the well.

7 It is pertinent to note that her footwear were on the road near the well and yet were not noticed by the applicant. All these aspects give rise to suspicion. That the so-called accident was only an eye wash. It is not a road of heavy traffic. It was neither an accident.

8 Upon perusal of the papers of investigation, it is clear that the applicant is responsible for the death of his wife. It cannot be believed that he would leave the place of incident without searching for his wife. The conduct of the applicant would assume significance. It is in this circumstance that the applicant does not deserve grant of pre-arrest bail.

9 The application being sans merits stands rejected.

10 However, it is made clear that the observations made herein above are prima facie in nature and are restricted to the application under section 438 of the Code of Criminal Procedure, 1973. The learned Sessions Judge shall not be influenced by the same at the time of hearing the application under section 439 of the Code of Criminal Procedure, 1973 or at the time of trial.

11 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)