

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2435 OF 2016

Pamabai Bharat Kadam

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Sachin B. Thorat Advocate for Applicant.
Mr. Y. M. Nakhwa APP for the State.
Mr. B. S. Birajdar, I.O. Sangola Police Station,
Dist. Solapur.

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : 5th DECEMBER, 2016.

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is arrested on 25/10/2016 in crime no. 525 of 2016 registered at Sangola Police Station for offence punishable under sections 307, 498 (A), 201, 504, 506 r/w 34 of the Indian Penal Code.

2) It is the case of the prosecution that the complainant Mrs. Reshma was married to son of the applicant on 14/03/2016. That on 11/08/2016 when she was in the critical and trauma centre hospital at Akhuj, her statement was recorded. According to her, within 15 days after marriage, she was harassed

ism

and ill-treated by the present applicant and her son mainly on the ground that at the time of marriage, her parents had not paid proper honours to her family and had not given good gifts. That she was fed up of the harassment and therefore, had gone to reside with her parents.

3) On 09/08/2016, the Dispute Resolution Committee of village Phalavani had given an understanding to the applicant as well as to the parents of the first informant and then it was amicably decided that she should go and reside with the present applicant. It is her case that on 11/08/2016, applicant and her son had again raised a quarrel. That Reshma had insisted upon talking to her mother. She was denied that opportunity. Her husband had abused her and thereafter, present applicant had exhorted him to eliminate Reshma and as a result they had administered poisonous liquid to her forcibly. She was admitted in the hospital as she had started vomiting. In the meanwhile, investigation is completed and charge-sheet is filed.

4) The learned APP submits that C.A. report is still awaited and therefore, applicant does not deserve to be enlarged on bail.

5) Applicant herein is a woman who is aged about 52 years old. The first informant is at present hale and hearty. The statement of the victim was also

recorded before the Executive Magistrate. There is a discrepancy as far as cause of the incident is concerned as well as the prelude to the incident. The said statement was recorded as dying declaration, however, since the victim had survived it would be *Res Gestae*. Taking into consideration the papers of investigation and material against the applicant it could be safely said that applicant could be prosecuted under section 498 (A) of the Indian Penal Code. However, it is made clear that observations made herein above 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. 50,000/- with one or more solvent sureties in the like amount.
- (iii) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)