

(1)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION 206 OF 2017

Santosh s/o Shivaji Pawar/Pardhi,
Age: 36 years, Occu: Labourer,
R/o. Hirapur, Tq. Chalisgaon,
Dist. Jalgaon

..APPLICANT

VERSUS

1. The State of Maharashtra,
Through Superintendent of Police,
Jalgaon
2. P.S.I. Chalisgaon Rural Police Station,
Chalisgaon, Tq. Chalisgaon,
Dist. Jalgaon

..RESPONDENTS

Mr U. S. Patil, Advocate for applicant;
Mr V. S. Badakh, Addl. Public Prosecutor for respondents

CORAM : N. W. SAMBRE, J.

DATE : 24th January, 2017

ORAL ORDER

By the present application under Section 438 of the Code of Criminal Procedure, the applicant seeks his release on bail, in connection with C.R. No.113 of 2016, registered with Chalisgaon Rural police station, Chalisgaon, Tq. Chalisgaon, Dist. Jalgaon, for offences punishable under Sections 306, 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code.

(2)

2. It is the case of the prosecution that Kokila was married to the present applicant some time five years back and in the intervening period, she was subjected to cruelty as she was assaulted time and again and also there was demand of dowry.

3. As a consequence of assault, time and again made by the present applicant Kokila, wife of the applicant committed suicide by jumping before running train. As such, crime in question.

4. Amongst other, the grounds as are pressed are that the incident in question has taken place after the period of five years from the date of marriage. It is then claimed that out of wedlock, deceased Kokila is blessed with two kids, a son and a daughter of eight months. It is then claimed that the applicant is falsely implicated in the crime in question, as there is no material to infer the demand of dowry. It is also claimed that the necessary ingredients for constitution of offence punishable under Section 306 of the Indian Penal Code are not satisfied and as such, the application needs to be allowed.

5. Learned Addl. Public Prosecutor opposed the application on the ground that the applicant being husband of deceased Kokila is principally responsible to answer her cause of death. In addition, he would submit that there are independent witnesses who have stated that the present applicant was in habit of assaulting Kokila and making demand of dowry.

(3)

6. Having bestowed my thoughts to the submissions made, though it is noted that all family members of the applicant are arraigned as accused in the crime in question, still most of them are already released on pre-arrest bail by the Court below.

7. Upon perusal of the contents of the first information report and statements of the independent witnesses, I find that there are specific attributions against the applicant in relation to assault on victim Kokila and there was also history of such assault.

8. In the above background, in my opinion, this is a case warranting custodial interrogation of the applicant. In view thereof, no case for grant of pre-arrest bail is made out.

9. In the result, Criminal Application stands rejected.

(N. W. SAMBRE, J.)

amj