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

CRIMINAL APPLICATION NO.1000 OF 2017

JAGDISH SAMBHAJI DESALE,
Age: 30 years, Occ: Service,
R/o. Desalewada, Shindkheda,
Tq. Shindkheda, Dist. Dhule,
At present: "Sapnapurti" Housing
Society, Room No.114, 5th Floor,
Building No. 7, Kanjur Marg (W),
Mumbai.

..APPLICANT

VERSUS

The State of Maharashtra

..RESPONDENT

WITH

CRIMINAL APPLICATION NO.1192 OF 2017

IN

CRIMINAL APPLICATION NO. 1000 OF 2017

Shri. Ishwar Sitaram Patil,
Age: 50 years, Occ: Agri.,
R/o. A/p Khamkheda, Tq. Dharangaon,
Dist. Dhule.

..APPLICANT

VERSUS

The State of Maharashtra & anr

..RESPONDENTS

Mr Joydeep Chatterji, Advocate for applicant;
Mr S.N. Morampalle, Addl. Public Prosecutor for
respondent
Mr. B.N. Sharma, Advocate to assist Addl. Public
Prosecutor

CORAM : N.W. SAMBRE, J.

DATE : 2nd MARCH, 2017

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ORAL ORDER :

For the reasons stated in Criminal Application No. 1192 of 2017 seeking permission to assist the prosecution, same stands allowed.

2. In Crime No. 129 of 2016, registered with Shindkheda Police Station, District Dhule, for offences punishable under Sections 304-B, 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code and under Sections 3 and 4 of Dowry Prohibition Act, the applicant is seeking pre-arrest bail.

3. The applicant, a public servant, serving in Mumbai Police, was married to daughter of complainant namely Vaishali on 2nd May, 2015 and was blessed with a son.

4. It is the prosecution story that the deceased Vaishali committed suicide, which was abetted by present applicant and committed offence punishable under Section 304-B read with Section

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498-A of the Indian Penal Code, as there was consistent demand of dowry of Rs.1,00,000/-, in addition to demand of Rs.4,00,000/- for purchase of flat at Mumbai.

5. Learned Counsel for the applicant submits that deceased Vaishali committed suicide on 27th November, 2016 being got frustrated because of her various ailments and would rely upon certain documents to that effect. In addition, he would submit that already flat was purchased at Mumbai in the joint name of applicant and his deceased wife Vaishali after obtaining loan from financial institution. He would then submit that being public servant, he is very much available for investigation.

6. Per contra, learned Additional Public Prosecutor, assisted by learned Counsel for the complainant, would submit that provisions of Section 112-B of the Evidence Act are required to be perused, as death is within period of seven

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years from the date of marriage. It is then claimed that the contents of first information as are material depict the continuous harassment to deceased Vaishali by the applicant and his family members.

7. Having considered the rival submissions, it is required to be noted that deceased Vaishali died of hanging as is apparent from the post mortem report. Apart from ligature mark on neck and abrasion below ligature mark, there are no other injuries. On the date of incident, admittedly the applicant was on duty at Mumbai.

8. It is also required to be noted that purchase of flat by the applicant and various certificates in relation to ailment suffered by deceased Vaishali is also not disputed by the learned Additional Public Prosecutor.

9. In the above referred background, there is doubt as regards *prima facie* involvement of the

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applicant in crime in question, who is public servant. As such, in my opinion, the application needs to be allowed.

10. In view of above, the following order is passed : -

(i) In the event of arrest of the applicant, in Crime No. 129 of 2016, registered with Shindkheda Police Station, District Dhule, for offences punishable under Sections 304-B, 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code and under Sections 3 and 4 of Dowry Prohibition Act, he be released on bail, on furnishing P.R. bond of Rs.25,000/-, with one or two sureties in the like amount.

(ii) The applicant shall attend the Investigating Officer on 13th and 14th March, 2017 between 10.00 a.m. and 12.00 noon and thereafter as and when called for.

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(ii) The applicant shall not influence the prosecution witnesses or tamper with evidence.

9. Criminal Application No. 1000 of 2017 stands allowed in above terms.

(N.W. SAMBRE, J.)

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