

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.2351 OF 2017

NAEEM KAYYUM KHAN)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Laxman Deshmukh, Advocate for the Applicant.

Ms.J.S.Lohokare, APP for the Respondent – State.

Ms.Prachita Vare, Advocate for the Intervenor.

Mr.Auti, Police Sub-Inspector, Kandivali Police Station, present in court.

CORAM : A. M. BADAR, J.

DATE : 3rd NOVEMBER 2017

P.C. :

1 The applicant / accused, who is husband of deceased Kulsum, by this application is seeking his release on bail, during pendency of the trial. He is arraigned as an accused in Crime No.105 of 2017 registered with Kandivali Police Station, Mumbai, for offences punishable under Sections 498A, 306, 304B read with

34 of the Indian Penal Code (IPC), at the instance of his father-in-law Liyakat Hussain.

2 Heard the learned advocate appearing for the applicant / accused. By drawing my attention to the order dated 23rd August 2017, passed by this court in Criminal Bail Applications No.1764 of 2017 and 1763 of 2017, the learned advocate for the applicant / accused argued that role attributed to the present applicant / accused is similar in nature to the one ascribed to total six co-accused, who are released on bail by this court. Hence, on the principle of parity, the present applicant / accused is entitled for the same treatment.

3 The learned APP has not disputed the fact that six co-accused are already released on bail by this court vide order dated 23rd August 2017. However, the learned APP argued that the applicant / accused, being husband of deceased Kulsum, was supposed to be more responsible to her, and she was got discharged from the hospital against the medical advise, despite

the fact that she had consumed poison. This has, ultimately, resulted in her death after five or six days. The learned APP further argued that the First Information Report (FIR) reflects abetment to commit suicide to a married woman, apart from causing dowry death.

4 I have carefully considered the rival submissions and also perused the entire charge-sheet. On 11th May 2014, Kulsum (since deceased) married the present applicant / accused and thereafter, she started residing with the applicant / accused along with his relatives. The averments against the present applicant / accused as well as the co-accused are to the effect that after her marriage, the present applicant / accused as well as his relatives were constantly torturing Kulsum by forcing her to bring money from her parents for purchasing motorcycle. She used to be assaulted by the present applicant / accused as well as all co-accused. Fed up with this ill-treatment, Kulsum consumed poison on 25th March 2017. She was then admitted to Sneha General Nursing Home, but she was got discharged from the said hospital,

against the medical advise, by accused persons. Then, again she was admitted to Phoenix hospital on 30th March 2017, where she died on the very same day.

5 Perusal of the entire charge-sheet goes to show that no different role is ascribed to the present applicant / accused in the alleged crime. Similar allegations are against all accused persons and those are to the effect that in order to demand money from her parents, deceased Kulsum was being subjected to cruelty by all accused persons.

6 Undisputedly, all co-accused are already released on bail by this court vide order dated 23rd August 2017, and as such, on the principle of parity, the applicant / accused deserves the same treatment. As such the order :

ORDER

- i) The application is allowed.
- ii) The applicant / accused in Crime No.105 of 2017 registered with Kandivali Police Station, Mumbai, for offences punishable

under Sections 498A, 306, 304B read with 34 of the IPC is ordered to be released on bail on his executing PR.Bond in the sum of Rs.15,000/-, and on furnishing surety in like amount.

- iii) The applicant / accused shall attend the concerned Police Station on the first Saturday of every month, between 10.00 a.m. and 11.00 a.m., till framing of the charge.
- iv) The applicant / accused shall inform his latest place of residence and mobile contact number immediately after being released and / or change of residence or mobile details, if any, from time to time to the trial court as well as to the concerned Police Station, in writing.
- v) The applicant / accused shall not contact / intimidate the complainant, witnesses, or any person concerned with the case.
- vi) The applicant / accused shall not leave the country, without the permission of the trial court.
- vii) The applicant / accused shall co-operate in the conduct of the trial.
- viii) The application stands disposed of.

(A. M. BADAR, J.)