

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1778 OF 2017

Aashish Rasiklal Ganatra ... **Applicant**

V/s.

The State of Maharashtra ... **Respondent**

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Mr.Pankaj J. Das, Advocate for the Applicant.

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

Mr.B.S.Gavit, IO, PSI, Gholvad Police Station, District Palghar is present.

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CORAM : A.M.BADAR J.

DATED : 10th OCTOBER 2017.

P.C. :

1 The applicant/accused in Crime No.I-21 of 2017 for the offence punishable under Sections 306 and 498-A read with Section 34 of the Indian Penal Code (hereinafter referred to as “IPC” for the sake of brevity) registered with Police Station, Gholvad, District Palghar, by this application, is seeking pre-arrest bail.

2 Heard the learned Advocate appearing for the applicant/accused. By taking me through the entire FIR, the learned Advocate argued that in fact, the marriage was solemnized

way back in the year 2000 and out of this wedlock, the applicant is having a son and daughter, who are with him. It is argued that throughout the married life of his deceased wife Hiral Diwan, she had not filed a report of non-cognizable case. She was having suicidal tendency. In fact, she died on 27/06/2017, but the FIR is filed on 12/07/2017.

3 The learned Additional Public Prosecutor opposed the application by contending that the crime in question is serious and there used to be harassment to the married woman on account of demand of money. For this purpose, the learned APP relied on the FIR as well as statement of uncle of deceased.

4 I have carefully considered the rival submissions and also perused the case diary including statements of witnesses.

5 The applicant is husband of Hiral Diwan. Mother of deceased Hiral died somewhere in the year 2013. Since then, as seen from statements of witnesses, applicant/accused was subjecting his wife Hiral to cruelty by insisting her, as well as his relatives, that they should give share of Hiral in ancestral property after death of her mother. Statement of son of present applicant goes to show that after death of his maternal grandmother, the present applicant had quarreled with relatives of his mother on account of her share in the ancestral property. It is seen that the

applicant prohibited his wife Hiral from visiting her maternal relatives including her parents.

6 Explanation to Section 498-A of the IPC defines the term 'cruelty'. Harassment to a married woman, when such harassment is with a view to coerce her or any person related to her to meet any unlawful demand for any property or valuable security and on account of failure to meet such demand also amounts to 'cruelty'. Statements of witnesses are *prima facie* indicating that deceased Hiral was subjected to cruelty which prompted her to commit suicide by jumping before the train.

7 No case for pre-arrest bail is, therefore, made out. Hence, the application is rejected.

(A.M.BADAR J.)