

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO.2492 OF 2017

Dhanaji Shankar Khandagale

...Applicant

vs.

The State of Maharashtra

...Respondent

Mr. Amit A. Karande for the Applicant.

Mr. V. B. Patil, APP for the State.

Mr. S. B. Magar, HC, Natepute Police Station, Solapur.

CORAM : SMT. SADHANA S. JADHAV, J.

DATE : 12th December, 2017

P.C.:

. Heard. This is an application under section 439 of the Code of Criminal Procedure. The Applicant herein is arrested on 4/8/2017 in Crime No.180/2017 registered at Natepute Police Station, Solapur for the offences punishable under sections 498A, 304B, 306, 323, 504 , 506 read with 34 of the Indian Penal Code.

2. The investigation is completed and chargesheet is filed.

3. The Applicant happens to be the father-in-law of the deceased. It is the case of the prosecution that on 4/8/2017 Mrs.Kaushalya Raut lodged report at the police station alleging therein that her daughter Ashwini was married to the son of the present applicant on 21/2/2017. That in the month of April Ashwini had disclosed to her parents that she was harassed on account of not cooking non-vegetarian food at home. That she was also harassed on account of not being able to work properly on the agricultural land. She had disclosed to her parents that she was harassed at the hands of her husband and members of her matrimonial family. That she

had conceived pregnancy. That in the month of June 2017 there was a demand of Rs.50,000/- from the present Applicant and his sons for buying vehicle since they were working as vegetable vendors. It is alleged that the present applicant had asked the parents of Ashwini to fulfill certain customary rights by giving gifts on account of Nagpanchami. On 3/8/2017 Ashwini was missing from the agricultural land. Upon search she was found in the well. The complainant was informed about the same and thereafter complaint was lodged. On the basis of which Crime No.180/2017 is registered.

4. Mr. Karande, Learned counsel for the Applicant submits that there are omnibus allegations against the present Applicant. That there was no demand of dowry. The Applicant had asked for fulfilling certain customary rights. The principal allegations are against the husband who was suspecting the chastity of his wife and has harassed, ill-treated and assaulted her. It is also alleged that her husband also threatened her of dire consequences and since the charge-sheet is filed the learned counsel for the Applicant prays for bail.

5. As against this Mr. Patil, learned APP submits that the deceased had died within 6 months of her marriage in her matrimonial home by committing suicide by drowning herself in the well and that it is a case of dowry death and therefore the Applicant does not deserve to be enlarged on bail.

6. Perused the papers of investigation. The post mortem notes indicate that the cause of death is asphyxia due to drowning.

7. Mr.Patil, Learned APP submits that the deceased was carrying pregnancy of 6-8 weeks and unless she was severely harassed she would

not have taken such a drastic step.

8. Be that as it may, it is true that Ashwini had taken an extreme step when she was pregnant of about 6-8 weeks. That the Applicant may be liable for the offence punishable under section 498A of the Indian Penal Code. However, it prima facie appears that the deceased was harassed, ill-treated and driven to death by her husband. It is in these circumstances that the Applicant deserves to be enlarged on bail. It is also submitted by the learned counsel for the Applicant that on similar set of allegations his second son Tatyaso has been enlarged on bail and therefore by virtue of doctrine of parity also the Applicant deserves to be enlarged on bail.

9. The observations made hereinabove are prima facie in nature and shall not be considered for quashing of FIR, discharge application or at the time of trial as they are restricted only to the application under section 439 of the Code of Criminal Procedure. Hence, the order:

ORDER

1. The application is allowed.
2. Applicant-Dhanaji Shankar Khandagale be enlarged on bail on furnishing P. R. bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount.

Application stands disposed of.

(SADHANA S. JADHAV, J.)