

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

CRIMINAL BAIL APPLICATION NO. 1316 OF 2018

Satish Vivekanand Shukla	... Applicant
Vs.	
The State of Maharashtra	... Respondent

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Mr. Samir Sarambalkar i/by Seema Adote for the applicant.
Mrs. G.P. Mulekar, APP for the Respondent-State.

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CORAM : PRAKASH D. NAIK, J.
DATE : 20th DECEMBER, 2018.

P.C.

1. This is an application for bail in C.R. No. 651 of 2017 registered with Samtanagar Police Station for the offence under Sections 498-A, 306 read with 34 of Indian Penal Code. The First Information Report was lodged on 22nd November, 2017. The applicant was arrested on 22nd November, 2017.

2. Prosecution case is that complainant's daughter got married to the applicant on 20th February, 2017. She was subjected to harassment by the accused. There was physical and mental ill-treatment. There was demand of dowry. Demand was also made for articles. She was subjected to assault. On 22nd November, 2017, she committed suicide. Applicant is the husband of the

victim. On completing investigation, chargesheet is filed.

3. Learned advocate for the applicant submitted that the allegations in the FIR are afterthought. There are no previous complaints. The applicant booked tickets alongwith victim on 4th November, 2017 for visiting Janghai UP which is their native place to attend the wedding ceremony which shows the relationship between the applicant and the deceased was cordial. There was no immediate cause for the deceased to commit suicide. Victim had left her matrimonial home on her own accord. The whatsapp message from the mobile of the victim and her sister were collected during the course of investigation by way of screen shots. The conversation shows there was a cordial relationship between the applicant and the victim. Cell phone of the deceased was recovered by the police. Deceased was not interested in matrimonial tie and hence she went to her parental home. Subsequently, she refused to join matrimonial home. There is no independent evidence to support the prosecution case. The applicant is in custody from the date of arrest. The suicide was committed at the parental home by the deceased 15 days after the victim had left the matrimonial home. The applicant is qualified person having no criminal antecedents. The other accused who

are the family members of the applicant are granted bail by the Sessions Court.

4. Learned APP submitted that victim was subjected to ill-treatment by the accused. Within a short span of time after the marriage the victim had committed suicide. Whatsapp message indicate the status of relationship between the applicant and the victim. It is further submitted that presumption under Section 113-A of Evidence Act is to be attracted in view of the death of the deceased within short span of time. The applicant had subjected deceased to ill-treatment. Apart from demand of dowry she was assaulted by the applicant. There is sufficient evidence which attributed overt act to the applicant having subjected the deceased to ill-treatment had compelled her to commit suicide. It is therefore submitted that the application be rejected.

5. I have perused the chargesheet. The First Information Report was lodged by the father of the victim. It is the case of the prosecution that victim had left the matrimonial home and joined her parent on account of alleged harassment. She has committed suicide 15 days after she has left the matrimonial home. The incident of suicide had occurred at the parental home of the deceased. The whatsapp messages relied upon by the prosecution

which is part of chargesheet does not show that there was a demand of dowry. The statement of neighbour Ms. Sunita Jha was recorded on 17th November, 2017. She has stated that the applicant used to abuse his wife, she came to know from the ladies from the area that the father of the applicant and other family members were forcing the victim to bring money and ornaments from her parents and she is being assaulted and abused. The said version is in the nature of hearsay evidence. Similar statements are made by Raghavendra Mishra and others Applicant is in custody from 22nd November, 2017. The investigation is completed and the chargesheet is filed.

6. Taking into consideration the aforesaid circumstances, the case for grant of bail is made out. Hence, I pass the following order.

ORDER

- i. Criminal Bail Application is allowed;
- ii. Applicant is directed to be released on bail in connection with C.R. No.651 of 2017 registered with Samta Nagar Police Station on furnishing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- iii. Applicant is permitted to furnish cash security of Rs.25,000/-

for a period of six weeks.

- iv. Applicant shall report the concerned police station once in a month on first Saturday of every month between 11 a.m. to 1 p.m. till further orders;
- iv. Applicant shall not tamper with the prosecution witness;
- v. Applicant shall attend the trial Court on the dates of hearing, unless exempted by the Court;
- vii. Criminal Bail Application stands disposed off.

(PRAKASH D. NAIK, J.)