

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

BAIL APPLICATION NO. 1625 OF 2018

Santosh Namdev Gore

..Applicant

v/s.

The State of Maharashtra .

..Respondents

Mr. Uday B. Nighot for the Applicant.

Ms. Pallavi Dabholkar, APP for the State.

CORAM : ANUJA PRABHUDESSAI,J.

DATED : OCTOBER 19, 2018.

P.C.

1. This is an application under Section 439 Cr.P.C. filed by the aforesaid applicant, who is facing trial in Sessions Case No.25 of 2018 pending on the file of the learned Sessions Judge, Khed Rajguru Nagar, Pune. The said case arises from Crime No. 402 of 2017 registered at Manchar Police Station, Pune for offences under Section 306, 323, 498A r/w. 34 of Indian Penal Code.

2. Mr. Nighot, the learned Counsel for the applicant submits that there is no prima facie material to show that the applicant is involved in committing offence under Section 306 of IPC. He has submitted

that the applicant is in custody since 18th December, 2017, and since the charge sheet is filed, his presence is no longer required in custody. Ms. Dabholkar, the learned APP submits that the witnesses have categorically stated that they had seen the applicant herein assaulting the deceased. She has stated that there is close proximity of time between the incident of assault and the death of wife of the applicant. She submits that the material on record prima facie proves that the applicant herein had by his act compelled his wife to commit suicide.

3. I have perused the records and considered the submissions advanced by the learned Counsels for the respective parties.

4. The records prima facie reveal that the applicant herein was married one Yellabai. Said Yellabai committed suicide on 17th December, 2017 by jumping in a well. The post mortem report shows that the death of Yellabai was due to drowning.

5. Shri Babaji Thombare, the brother of Yellabaai lodged the FIR stating that the applicant herein used to constantly beat his wife and subject her to physical and mental cruelty. He has stated that some persons from his community had intervened and tried to settle the

matrimonial distort. He has stated that the applicant had taken his wife Yellabai to her matrimonial home after giving an assurance that he would not assault her. The brother of Yellabai has alleged that despite such assurance, the applicant continued beating Yellabai. He claims that Yellabai had committed suicide because of constant physical and mental harassment meted out to her by the applicant herein.

6. The statement of Lalu Babu Thombare, the father of the deceased also suggests that the applicant herein used to constantly beat Yellabai. He has stated that said Yellabai had complained to him about the ill-treatment meted out to her by the applicant. He had therefore brought her back to her maternal house. He sent her to her matrimonial home in view of the assurance given by the applicant that he would not assault and ill-treat his wife. He has stated that even thereafter Yellabai used to constantly complain that the applicant herein was assaulting her. Hence, in the year 2017 he brought Yellabai to her maternal home and once again called for a meeting of the members of the community. He has stated that Sonba Gore, cousin of the applicant had assured safety of said

Yellabai and had requested them to sent her back to her matrimonial house, whereupon they once again sent Yellabai to her matrimonial home. The statement of Lalu Thombare further indicates that the applicant had continued assaulting and harassing Yellabai and that she used to constantly complain about the same to her family members.

7. The statement of Sonba Gore also prima facie supports the contention of the father and brother of deceased Yellabai that the applicant and others used to assault Yellabai and that said Yellabai was subjected to physical and mental cruelty. The statement of Sonba Gore also prima facie corroborates that a meeting was held and that he had requested the parents of Yellabai to sent her back to her matrimonial house and that he would ensure her safety.

8. The aforesaid material prima facie reveals that the applicant used to assault Yellabai and used to subject her to physical as well as mental cruelty. The statements of Satish Khalkar and Mahendra Pathak prima facie indicate that on 17th December, 2017 at about 11 a.m. they had seen said Yellabai lying on the ground, the applicant sitting on her and assaulting her. These two witnesses had

questioned the applicant as to why he was assaulting her, and that the applicant had told them that she was his wife. Both these witnesses have stated that they had told Yellabai to lodge a complaint against the applicant. The records indicate that instead of lodging police complaint, said Yellabai had chosen to end her life by jumping in a nearby well.

9. The records prima facie indicate that the applicant had constantly and continuously subjected Yellabai to physical and mental cruelty and had created such circumstances that she was left with no other option, but to take this drastic step of committing suicide. The material on record therefore prima facie reveals that the applicant is involved in abetting suicide of Yellabai. The offence is of serious nature. The trial has not yet commenced. Releasing the applicant on bail can hamper trial.

10. Considering the above facts and circumstances, in my considered view, the applicant is not entitled for bail at this stage. The application is therefore dismissed.

(ANUJA PRABHUDESSAI, J.)