

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

BAIL APPLICATION NO.1901 OF 2018

Nitin Khanna	.. Applicant
Vs.	
State of Maharashtra	.. Respondent

.....

Mr.Ashok Mundargi, Senior Advocate a/w. Faisal Sayyed i/b.
M/S.MKA & Co., Advocate for the Applicant.

Mrs.G.P. Mulekar, APP for the Respondent – State.

.....

CORAM : PRAKASH D. NAIK, J.

DATED : SEPTEMBER 25, 2018.

P.C. :

The applicant is seeking bail in C.R.No.185 of 2018, registered with Meghwadi Police Station, Mumbai for the offences punishable under Section 306 read with 34 of Indian Penal Code ("IPC", for short).

2 The case of the prosecution is that the victim was working as a maid servant with the applicant – accused. First Information Report ("FIR", for short), was filed by the father of the victim on 27th June, 2018. Victim/deceased was employed with the applicant as maid servant with salary of Rs.10,000/-, per month. The salary was being credited in the account of the

mother of the deceased. Victim used to call her family. On 17th May, 2018, the victim had visited at her native place at Ratnagiri and met her parents. At that time she had informed that she is the only servant working in the house and there is pressure of work. The owner has not given salary of three months. On 5th June, 2018, complainant had given an amount of Rs.10,000/-, for expenses to the victim. On 25th June, 2018, the call was received from the wife of the applicant by complainant and inquiries were made as to how much amount was given to the victim by them. Applicant's wife was informed that the complainant had given her an amount of Rs.10,000/- to the victim. It is further alleged that the accused used to harass the victim by suspecting her that she has committed theft in the house. She was threatened that the information about the victim committing theft will be circulating on social media. It was also alleged that the victim had committed theft of silver coin. On 26th June, 2018, information was received that the complainant's daughter had fallen while cleaning the house, and, therefore, the complainant was requested to come to Mumbai. After coming to Mumbai, the complainant realised that the victim – daughter has committed suicide by jumping from the building where she was working. FIR was registered. Statements of several persons were recorded. Statement of the co-worker,

who also working in the house with the victim was recorded on 27th June, 2018. On completing investigation, charge - sheet is filed.

3 Applicant preferred an application for bail before the Sessions Court which was rejected on 19th July, 2018. While rejecting the said application, it was observed that the offence is of serious nature and the co-accused is yet to be arrested. If the applicant is released on bail, possibility of tampering witnesses, cannot be ruled out. The investigation is in progress.

4 Subsequently, charge-sheet has been filed before the competent Court.

5 Learned counsel for the applicant submitted that taking the prosecution case as it is, there is no evidence to constitute an offence under Section 306 of IPC. The victim was working as a maid servant in the house of the applicant. Her salary is being credited in the account of her mother. Applicant relying upon the Bank Statement to support the said submission. Salary was duly paid on monthly basis in the specified account of the mother of the deceased via NEFT. The deceased was being

treated as a family member. At the most, as alleged, the deceased was being questioned on account of the theft in the house. The alleged act would not amount to abetment to commit suicide. Learned counsel pointed out the statement of the other servant who was also working in the house, in which she has given account of what had allegedly happened on the date of incident. It is submitted that there was no reason on account of alleged conduct of accused to commit suicide.

6 Learned APP submitted that the statement of father of the deceased, co-worker Deepa Borde and the other relatives of the victim clearly indicate that the victim was being harassed by the accused. The salary was not paid regularly. The victim was threatened that the information about she committing theft will be circulated on social media. She was under tremendous pressure and on the date of incident she was threatened and harassed, and,, immediately therefore she jumped from the building and committed suicide. The applicant - accused had abetted the victim to commit suicide.

7 I have perused the charge - sheet. The statement of father of the victim, other co-worker and relatives indicate that the victim was working as maid servant in the house of the

accused. She was being allegedly questioned about theft in their house and threatened that the the information will be circulated on social media. On perusal of the statement of Deepa Borde, the co-worker, it can be seen that according to her the victim was questioned by the applicant - accused about theft. She further stated that Jyoti Patekar (deceased) was working with accused. She joined 15 days prior to incident. On 23rd June, 2018, applicant informed her and Jyoti that silver coin is missing and enquiry was made with them. Both of them had informed that they have not committed theft of coin. On 25th June, 2018, wife of applicant and applicant checked the bags of both of them. The missing coin was found in the bag of Jyoti. Thereafter, applicant's wife told Jyoti that she is repeatedly committing theft and she should leave the job. Jyoti told the witness that her money is being stolen. She informed the said fact to applicant. The applicant stated that he would verify from CCTV Footage. Applicant's wife again shouted at Jyoti and told her that until she gets new servant, she should continue to work with them otherwise they would circulate the information about her by putting her photo on whatsapp and Facebook and defame her. Jyoti was crying. Shortly thereafter she was not found in house and it was noticed that she had jumped from the building and committed suicide.

8 The Bank Statement, indicate that the salary was credited to the account of mother of deceased. From statement of Deepa Borde, it is apparent that the victim was questioned about theft and silver coin was found in her bag. She was asked to continue to work with accused or else warned of alleged defamation. In such circumstances, the question whether Section 306 IPC is attracted or not is a debatable issue which will be considered in trial. Further custody of applicant is not required. Hence, case for grant of bail is made out.

9 Hence, I pass the following order:

:: ORDER ::

- (i) Bail Application No.1901 of 2018, is allowed;
- (ii) The applicant is directed to be released on bail in connection with C.R.No.185 of 2018, registered with Meghwadi Police Station, Mumbai, on his furnishing P.R. Bond in the sum of Rs.25,000/-, with one or more sureties in the like amount;

- (ii) Applicant shall attend Meghwadi Police Station, Mumbai, once in a Month on first Saturday of the month between 10:00 a.m. to 12:00 noon, till further orders;
- (iii) Applicant is directed to attend the trial Court on the date of hearing unless exempted by the Court for some reasons;
- (iv) Applicant shall not tamper with the evidence;
- (v) Applicant is permitted to furnish cash security in lieu of surety for a period of six months from today;
- (vi) Bail Application No. 1901 of 2018, stands disposed of.

(PRAKASH D. NAIK, J.)