

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

BAIL APPLICATION NO.2319 OF 2018

Santosh Bhaskar Ghodake	...Applicant
Versus	
The State of Maharashtra	...Respondent

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Mr. Kuldeep S. Patil for the Applicant.
Mr. S.H. Yadav, APP for the Respondent-State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 24th SEPTEMBER, 2018.

P.C.:-

This is an application under Section 439 of the Cr.P.C. filed by the aforesaid Applicant, who has been arrested in I-108 of 2018 registered with Khandeshwar Police Station, District Navi Mumbai, for offences punishable under Sections 306, 498 A r/w. 34 of the IPC.

2. Heard Mr. Kuldeep Patil, the learned counsel for the Applicant and Mr. S.H. Yadav, the learned APP for the Respondent -State. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties.

3. The Applicant was married to Nisha, daughter of the first

informant, in the year 2015. She consumed poison on 20th April, 2018 and expired on 21st April, 2018. Bhagwat Waman Sable, father of the deceased Nisha lodged the FIR alleging that the Applicant herein used to abuse and assault the deceased-Nisha and subject her to physical as well as mental cruelty. The FIR as well as the statements of the witnesses prima facie reveal that the Applicant and his family members used to assault her and starve Nisha. The deceased had complained about this to her parents and had told them that she was unable to bear the ill-treatment meted out to her.

4. On 18th April, 2018, a couple of days prior to suicide, Nisha had visited her father at Kamothe. Even during this time she had told her father that the Applicant and his mother were beating her and were subjecting her to cruelty and that she was unable to bear the same. The same evening the first informant dropped her daughter Nisha to her marital house. Later in the night when he phoned the Applicant to enquire about Nisha, the Applicant abused him. Hence on 20th April, 2018, the first informant went to see his daughter and found that Nisha was sleeping on the bed and was being administered saline solution. When he inquired with the mother of the Applicant, she told him that Nisha had been vomiting she was taken to the hospital and

was given saline drip as per the advice of the Doctor. The first informant thereafter returned home.

5. On 21st April, 2018 at about 00.15 hours the brother of the Applicant told him that the deceased had consumed poison and that she was admitted in D.Y. Patil Hospital. He rushed to the hospital to see his daughter, but she was not in a position to talk. At about 4.10 a.m. the doctor told him that Nisha had expired. The father of the deceased thereafter lodged the FIR against the Applicant and co-accused for subjecting Nisha to cruelty and for abetment to commit suicide.

6. The statements of Sakhubai, Sagar, Roshni and Manisha also prima facie indicate that the Applicant used to assault Nisha and would not given her food. She was subjected to physical as well as mental cruelty. The statements of neighbours also prima facie indicate that Nisha had told them that she was being constantly assaulted and that the Applicant and his family members were not providing her food and were starving her. Thus, the material on record, prima facie indicate that the Applicant had subjected Nisha to physical as well as mental cruelty.

7. The records prima facie indicate that on 20.4.2018 Nisha had consumed poison. The statement of Dr. Vishal Wani, who holds a diploma in Homeopathy medicine, prima facie reveals that Nisha was brought to his clinic with history of vomiting since the previous night. Dr. Vishal has stated that the Applicant appeared to be scared. Dr. Vishal had told the Applicant that his wife had to be admitted, however, the Applicant told him to give her some medicines or else he would take her to some other hospital. Dr. Vishal therefore gave saline and informed the Applicant that the preliminary symptoms indicated that Nisha was pregnant. He had told the Applicant to conduct further tests, however, the Applicant told him that he did not have money and would return the evening.

8. The records reveal that the Applicant did not take Nisha to another hospital but took her home. On 20.4.2018 at 8.30 p.m., after her condition started deteriorating that he took her to Arunoday Clinic. The statement of Dr. Vinod Yadav prima facie reveals that when Nisha was brought to the hospital, she was not in a position to talk. The Applicant herein had not told him that Nisha had consumed poison. He had told him that Nisha was vomiting since morning. The

condition of Nisha was critical, hence he told the Applicant to shift the patient to Neel Hospital at Panvel.

9. The statement of Dr. Pandharinath Neel reveals that as per the advice of Dr. Vinod, the Applicant had brought Nisha to Neel Clinic at New Panvel on 20.4.2018 at about 9.15 p.m. The statement of this witness indicates that the Applicant had told him that Nisha had consumed rat poison and that she was vomiting since morning. He advised the Applicant to take Nisha to a bigger hospital. She was later taken to Dr. D.Y. Patil hospital, Nerul. Nisha expired on 21.4.2018 at about 4.10 a.m.

10. Thus, the material on record prima facie reveals that the Applicant was very well aware that Nisha had consumed poison and that she was vomiting since the intervening night of 19th and 20th April, 2018. He had not taken her to Doctor till 12.00 p.m. of 20th April, 2018. Even when he had taken her to Doctor, he had not informed the Doctor that she had consumed poison, he had not done any test prescribed by the Doctor. On the contrary, brought her home stating that he had no money and when the condition of Nisha further deteriorated, he had taken her to the hospital.

11. The records prima facie reveal that said Nisha had committed suicide within 7 years of her marriage. Statements of the witnesses prima facie indicate that she was subjected to cruelty. This fact coupled with the fact that the Applicant had not provided medical aid to the deceased-Nisha and that he had not informed the Doctor that she had consumed poison, prima facie suggests that the Applicant has abetted commission of crime. The offence is of serious nature. Some of the witnesses are the neighbours of the Applicant. In the event of release of the Applicant on bail, there is possibility of the Applicant exerting pressure on the witnesses.

12. Considering the above facts and circumstances, in my considered view, this is not a fit case for grant of bail. Hence, the application is dismissed.

13. Suffice it to say that the above observations are made whilst disposing of the application and shall not be construed as an expression on merits of the matter.

(SMT. ANUJA PRABHUDESSAI, J.)