

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 2217 OF 2017***

Shri Chandan K. Purohit
Versus
The State of Maharashtra

...Applicant

...Respondent

Mr.Khush Khandelwal i/b. Khandelwal Associates, for the applicant.
Mr. Vaibhav Bagade for the Intervenor.
Ms.S.S.Kaushik,APP, for the State.
Ms. Vaishali Galande, PI, Chatushringi Police Station present.

***CORAM : SMT. SADHANA S.JADHAV, J.
DATE : 15th January, 2018.***

P.C. :

1. Heard. This is an application under Section 439 of Cr.P.C.
The applicant herein is arrested on 23.3.2017 in Crime No.151 of 2017 registered at Chatushringi Police Station, Pune, initially for the offences punishable under Sections 306, 498A read with Section 34 of the Indian Penal Code.
2. It is the case of the prosecution that on 23.3.2017, Shambudutt Boda lodged a report at the Chatushringi Police Station alleging therein that his daughter Nikita had got married to the present applicant on

1.12.2016. After the marriage, they had gone for trip to Mauritius. It is alleged that the sister of the applicant used to call upon him at any time and they used to talk for long intervals. It is alleged that his daughter Nikita had disclosed to him that upon query made by her the applicant had assaulted her. It is alleged that his daughter had informed the applicant that she would not maintain conjugal relations with him as long as he does not clarify his relations with his sister. The applicant was annoyed and he assaulted her and insisted upon having intercourse. It is alleged that on 11.1.2017, Nikita had visited her maternal home in a night suit and upon query made by the first informant she had disclosed that her husband i.e. the present applicant was insisting upon having sexual relations with her at any cost and upon denial, he wanted to assault the applicant and therefore, she rushed to her maternal home. On 27.1.2017, it is the first informant who had refused to send Nikita with the applicant. That subsequently they agreed to send her and then on 20.3.2017, Nikita had informed her parents that the applicant had asked her to apologise to all the members of the family. On 22.3.2017, at about 10.30 p.m., the applicant telephoned the complainant informing him that Nikita had committed suicide and that he would fetch the dead body to Jodhpur. On the basis of the said report, Crime No. 151 of 2017 was

registered for the offences punishable under Sections 498A and 306 of the Indian Penal Code.

3. It is a matter of record that at the time when Nikita had committed suicide, the applicant was in the office. In the course of investigation, police had seized diary written by deceased Nikita, wherein she had narrated all the incidents right from the day of her marriage. She has also narrated as to how she had come in contact with the applicant. They had developed a liking for each other. She has specifically stated that she had some friends whom she considered to be soul mate. The said friend also got married. She also had a friend by name Aashish, but he was more friendly with the applicant. According to her, she could not have any specific attraction towards him. The family of the present applicant had proposed for Nikita. She was so nervous that she wanted to break engagement which had taken place on 29.1.2016. There was only one thing which she liked about him, that was that he gave her sufficient independent space. She has had no allegations against the in-laws. She has stated that she had spoken to her parents about her problem, however, they would not understand the same and had asked her to continue with her marital life.

4. It appears from the record that subsequently there was an

allegation that there was a demand of dowry and therefore she was harassed by the applicant and the other in-laws.

4A. On 23.3.2017, at 10.30 p.m., she had committed suicide in the matrimonial home. Initially, she was admitted in Shashwat Hospital, Aundh, where the doctor had opined that there are signs of strangulation and her fingers were cynosed. The investigating officer had sought a clarification from the doctor and he has candidly stated that prima facie it was difficult to judge whether it is due to strangulation or hanging since he could not judge the same, he has stated that it is a case of strangulation. There are no marks of injury either in the inquest panchnama or in the post-mortem notes. It is the case of the complainant that when he saw the dead body on 23.3.2017, he had seen the injury marks on her body. It is pertinent to note that the complainant was present at the time of inquest panchnama and he had not complained of any injuries on her person.

5. The learned counsel for the applicant submits that the complainant has filed two Writ Petitions. One Writ Petition is for carrying reinvestigation and the second writ petition is for considering the first information report which was filed at Rajasthan by mother of the mother of the deceased.

6. Upon perusal of the papers of investigation and more particularly, the diary written by the deceased, it is more than clear that the deceased did not wish to continue her conjugal relations with the applicant for the reasons assigned in the said diary. She had some hopes from her parents. However, they tried to console her. It is in these circumstances, that the applicant deserves to be enlarged on bail.

7. It is made clear that the observations herein are restricted to an application under Section 439 of Cr.P.C. and shall not be taken into consideration for the purpose of quashing FIR, discharge application or at the time of trial.

ORDER

- (i) The application is allowed.
- (ii) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.50,000/- with one or more sureties in the like amount.
- (iii) The applicant shall report to the concerned police station as and when called subject to the decision in the Writ Petitions.

(SMT. SADHANA S.JADHAV, J.)