

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

BAIL APPLICATION NO.2668 OF 2018

Suresh Raghunath Kushalkar ...Applicant

Versus

The Senior Inspector of Police
Deolali Camp Police Station, Nashik
and Anr.

...Respondents

.....

Mr. Niranjana Mundargi with Mr. Swapnil Wagh for the Applicant.

Mr. S.R. Agarkar, APP for the Respondents-State.

Mr. M.J. Sayyed, Head Constable, Devlali Camp Police Station, present.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 22nd OCTOBER, 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 Crime No.107 of 2018 registered at Deolali Camp Police Station, District-Nashik, for offences punishable under Sections 306 and 504 of the Indian Penal Code, 1860.

2. Heard Mr. Niranjana Mundargi, the learned counsel for the Applicant and Mr. S.R. Agarkar, the learned APP for the Respondent-State. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. The records prima facie reveal that on 29.8.2018 one Kajol Devkar, daughter of the first informant had consumed poison and had committed suicide. Ranjana Duryodhan Gaikwad, mother of the deceased lodged FIR against the present Applicant for abetting suicide of her daughter. The FIR prima facie reveals that on 29.8.2018 at about 4.00 p.m., she found that the deceased-Kajol was crying. When she asked her about the reason, the deceased told her that the present Applicant had been to the house and asked the deceased-Kajol as to why she had left her husband or whether she was interested in marrying any other person. The Applicant had allegedly stated that if she was not ready to go to her matrimonial home, it would be better that she dies. The deceased-Kajol told the first informant that she had consumed poison in a fit of anger.

4. Even if, the allegations in the FIR are taken at the face value and considered to be true and correct, the same in my considered view, would not prima facie constitute 'abetment' within the meaning of Section 107 of the IPC. In the absence of any prima facie material to show that the Applicant has provoked, instigated, enticed and/or intentionally aided the deceased in committing suicide, he cannot be prima facie held guilty of offence under Section 306 of the IPC.

5. The Applicant was arrested on 30.8.2018 and considering the nature of the allegations against the Applicant, in my considered view this is not a case which would require further detention. The Applicant is a permanent resident of Vijay Nagar, hence, there are no chances of his absconding and/or thwarting the course of justice. The learned APP submits that the Applicant is not involved in any other cognizable offence.

6. At this stage, the learned counsel for the Applicant submits that the Applicant requires time to furnish surety bonds and that considering the nature of allegations levelled against the Applicant, he may be released on cash bail forthwith.

7. Considering the above facts and circumstances, the application is allowed on following terms and conditions:-

- (i) The Applicant, who is arrested in Crime No.107 of 2018 registered at Deolali Camp Police Station, District-Nashik, he shall be released temporarily on furnishing cash surety of Rs.50,000/- for a period of four weeks and thereafter shall be granted regular bail on

furnishing bail bonds of Rs.30,000/- with one or two solvent sureties in the like amount.

- (ii) The Applicant shall report to the Deolali Camp Police Station as and when required and called by the concerned investigation officer.
- (iii) The Applicant shall furnish his permanent as well as temporary address, if any, and his contact details to the concerned investigation officer.
- (iv) The Applicant shall not change his residential address without prior intimation to the investigation officer.

(SMT. ANUJA PRABHUDESSAI, J.)

Megha
Shridhar
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by Megha
Shridhar Parab
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