

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

BAIL APPLICATION NO. 2688 OF 2017

Digvijay Namdev Pol.	... Applicant.
Versus	
The State of Maharashtra.	... Respondent.

WITH
CRIMINAL APPLICATION NO. 1157 OF 2017
IN
BAIL APPLICATION NO. 2688 OF 2017

Suvarna Janardhan Gaikwad.	... Applicant/intervenor.
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In the matter between

Digvijay Namdev Pol.	... Applicant.
Versus	
The State of Maharashtra.	... Respondent.

Mr. Niranjana S. Mundargi, advocate for applicant.

None for intervenor.

Mr. N.B. Patil, APP for State.

**CORAM : SMT.SADHANA S. JADHAV,J
DATE : JANUARY 16, 2018**

P.C.:

1 Heard the learned Counsel for the applicant and the learned
APP for State.

2 This is an application under section 439 of the Code of Criminal Procedure, 1973. The applicant herein is charge-sheeted in Crime No. 298 of 2017 registered at Bhuinj Police Station for offence punishable under section 306, 498A, 323, 504, 510 read with 34 of the Indian Penal Code. The applicant is arrested on 5/9/2017. The investigation is completed and charge-sheet is filed on 30/10/2017. Section 304B of the Indian Penal Code has also been added in the charge-sheet.

3 It is the case of the prosecution that on 4/9/2017 Supriya, wife of the present applicant has committed suicide in her matrimonial home. On 5/9/2017 mother of Supriya namely Suvarna Janardan Gaikwad lodged a report at the police station alleging therein that her daughter was married to the present applicant on 22/5/2014. That her daughter had informed her parents that she was being harassed and ill-treated by the members of her matrimonial family including present applicant for demand of Rs. One Lakh for

purchasing a four wheeler. She was also harassed on the ground that she had not yet conceived pregnancy. Supriya had delivered baby boy in April, 2017. It is also alleged that Supriya was abused by her family members. It also appears from the record that the applicant herein used to return home in intoxicating mind and abuse Supriya and assault her and therefore, being fed up of the harassment and ill-treatment meted out to her, she had committed suicide on 4/9/2017 by hanging.

4 The learned Counsel for the applicant submits that the deceased Supriya was taking treatment at Girija Neurosurgical ICU and Hospital. She was prescribed medicines like Cardimol Plus, Fluwel 20 mg., Divalgress OD 500 mg. and Ketanov. It is submitted that Supriya was having some neurological problem way back in 2015 itself. That therefore, he cannot be held liable for commission of suicide.

5 The investigating agency has recorded the statement of all the relatives of Supriya and each one of them had categorically stated

that there was a demand of Rs. One Lakh for purchasing a four wheeler. The first informant has stated that just one day before the incident they had visited house of Supriya and at that time, she had disclosed that the members of matrimonial family were harassing her and abusing on demand for Rs. One Lakh.

6 According to the learned APP this would clearly establish that there is proximity between the disclosure statement and the day when she had committed suicide and therefore, the applicant is being prosecuted for offence punishable under section 304B of the Indian Penal Code and hence, he does not deserve to be granted bail.

7 As against this, the learned Counsel for the applicant submitted that there is an allegation against the members of the matrimonial family and not the applicant alone. The other members of the matrimonial family i.e. her in-laws have been granted pre-arrest bail by this court.

8 The applicant is in custody since 5/9/2017. The investigation is completed and charge-sheet is filed. The applicant happens to be a public servant. The applicant has been suspended from the service. It cannot be said that the applicant had abetted and facilitated commission of suicide. The applicant could be held liable for an offence punishable under section 498A of the Indian Penal Code. Hence, the applicant has made out a case for grant of bail.

9 It is made clear that the observations are restricted to the application under section 439 of the Code of Criminal Procedure, 1973 and shall not be taken into consideration for purpose of discharge application or quashing of FIR or service matter or at the time of trial.

10 Hence following order is passed :

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 solvent sureties in the like amount.

(iii) The applicant shall not tamper with the evidence.

11 The application is disposed of accordingly.

12 None appears for the intervenor. In view of disposal of the present application, intervention application bearing Criminal Application No. 1157 of 2017 is allowed and disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)