

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

ANTICIPATORY BAIL APPLICATION NO. 589 OF 2019

Parmeshwar Damodar Misal

.... Applicant

versus

The State of Maharashtra

.... Respondent

.....

- Mr. Pranav P. Pokale I/b Mr. Govind Shirale, Advocate for Applicant.
- Ms. S. S. Kaushik, APP for the State/Respondent.
- Mr. Manmit Vilas Raut, API, Bharti Vidyapeeth Police Station, Pune.

**CORAM : SARANG V. KOTWAL, J.
DATE : 27th AUGUST 2019**

P.C. :

1. The Applicant is apprehending his arrest in connection with C.R.No. 120/19 registered with Bharti Vidyapeeth Police Station, under sections 306, 498-A, 323 and 504 of the Indian Penal Code.
2. The FIR is lodged by one Vishnu Kamble, who was father of the deceased Ashwini. The applicant was married to Ashwini. The FIR mentions that the marriage had taken place on

22nd November 2017. Aadhar Card of the applicant's daughter shows that the daughter was born on 18th November 2017. Thus, there are appears to be some discrepancies in respect of the date of marriage of the applicant and deceased. However, the date of marriage is not important in the context of the case. The fact remains that the both of them were married and a daughter was born to them. It is his case in the FIR that the informant had spent money for giving articles during wedding. He had spent for expenses for the marriage. It is mentioned that the applicant and the deceased had gone to Gujarat in January 2018. He has further mentioned that on one occasion the deceased had called the informant telephonically and had requested him to pay Rupees Fifteen Thousand, which was agreed to be paid as dowry. It is his case that on few occasions, the deceased was complaining that the applicant was not treating her properly.

3. In January 2018, the applicant and the deceased came back to their native place in district Beed. The applicant met the informant and told him that since he had lost his job, he was in

need of money and asked the informant to pay Rupees Fifteen Thousand, which was agreed to be paid. However, even the informant was not in a good financial condition and therefore, he did not make that payment. It is alleged that in November 2018, the applicant and the deceased went to Pune in search of work. The deceased used to sometime complain about the ill-treatment at the hands of the present applicant because Rupees Fifteen Thousand were not paid. It is further mentioned in the FIR, that, on 20th January 2019, the informant's elder daughter told him, that, the deceased had informed her that she had consumed poison because the applicant was harassing her and was asking for Rupees Fifteen Thousand.

4. On 22nd January 2019, the applicant called the informant and informed about the deceased having consumed poison. The informant went to Pune to see his daughter, but she did not survive and died on 23rd January 2019. On that basis the FIR is lodged.

5. Heard, Mr. Pokale, learned counsel for the applicant as well as Ms. Kaushik, learned APP for the State.

6. Learned counsel for the applicant submitted that the FIR does not show that the applicant had caused such harassment, which would amount to cruelty as mentioned under Section 498-A of the IPC. He submitted that the applicant and the deceased were living in harmony and they were blessed with a girl child. The allegations are made out of anger.
7. The learned APP produced before me the papers of investigation in respect of investigation carried out so far. The investigation papers contain an important statement of witness Deepak Kharat. This witness was neighbour of the applicant and the deceased. With his efforts, the applicant got the job of watchman in a society at Pune. This witness has clearly stated that the applicant and the deceased were living peacefully and in harmony. He has stated that, on 20th January 2019, the applicant was on duty in hospital. He informed this witness that his wife had consumed poison, who was at home and sought help of this witness. The applicant told this witness to remove the deceased to the hospital. This witness went to the house of the deceased. The deceased told him that on the previous night

the applicant had scolded her as she had not given him tiffin. The deceased was under pressure because of that incident and in that state of mind she had consumed poison. This witness took her to Bharti hospital, where she was admitted. Further, the deceased herself wanted to go back to her house because her young daughter was alone. At her instance, she was allowed to go back to her home. However, the treatment was not completed. On the next day, her situation became aggravated and again she was taken to the hospital by the applicant and this witness. On 23rd January 2019 she died. His statement shows that the cause for consuming poison was a petty incident. The applicant and the deceased had a petty quarrel and in that state of mind she committed suicide. This act hardly can be described as abetment as defined under Section 107 of the IPC, on the part of the present applicant. The statement of this witness shows that they were living peacefully. The FIR also does not give any specific nature of harassment. Therefore, at this stage, the statement of this witness Deepak Kharat cannot be ignored.

8. In this view of the matter, custodial interrogation of

the applicant is not necessary and he deserves the protection of anticipatory bail. Hence, the following order:-

ORDER

- (i) In the event of his arrest in connection with C.R. No.120/19 registered with Bharti Vidyapeeth Police Station, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
- (ii) Application stands disposed of.

(SARANG V. KOTWAL, J.)