

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 808 OF 2019**

Sachin Kashinath Wani

...Applicant

Versus

The State of Maharashtra

...Respondent

Ms. Misbah Solkar a/w Ms. Rahila Memon I/b Mr. Solkar Mohammed
Haroon for the Applicant

Ms. P. P. Shinde, A.P.P for the Respondent-State

API Mr. Atul M. Sonawane from Vitthawadi Police Station, is present

CORAM : REVATI MOHITE DERE, J.
WEDNESDAY, 4th SEPTEMBER 2019

P.C. :

1 Heard learned counsel for the parties.

2 By this application, the applicant seeks his enlargement on bail
in connection with C.R. No. I-73 of 2018 registered with the Vitthalwadi
Police Station, Kalyan, District Thane, for the alleged offences punishable
under Sections 498A and 302 of the Indian Penal Code.

3 Perused the papers. The complainant's daughter-Geeta
(deceased) was married to the applicant on 10th June 2010. From the said

marriage, the applicant and the complainant-Geeta had two children, who were 7 and 5 years at the relevant time. According to the prosecution, the applicant was insisting Geeta to bring money from her parents, for purchase of a house, pursuant to which, there was a quarrel between them. It is further alleged that though the complainant had provided initial help to the applicant in purchasing an auto rickshaw, the applicant subsequently sold the same and was thereafter insisting that Geeta should again bring money from her parents, for purchasing a house. On 13th March 2018, Geeta committed suicide by hanging herself from the ceiling fan. Pursuant thereto, Geeta's father lodged the aforesaid complaint as against the applicant alleging offences punishable under Sections 498A and 306 of the Indian Penal Code. It appears that subsequently after the applicant's daughter's statement was recorded after three days, that Section 302 was added.

4 Learned counsel for the applicant submits that the statement of applicant's daughter, aged 5 years, was recorded after three days of the incident, when she was in the custody of her grandparents. She further submits that there is no material to show that the door was latched from

outside by the applicant, after the alleged incident. The panchanama of the spot also does not show whether the door was latched from outside or from inside. According to the spot panchanama, Geeta was found hanging on a ceiling fan.

5 Learned counsel for the applicant has tendered an affidavit-cum-undertaking of the applicant that he would not contact his daughter nor seek her custody from her grandparents till the conclusion of the trial. The said affidavit-cum-undertaking is taken on record and marked 'X' for identification.

6 Whether or not the offence is one under Section 306 or 302, is a matter, which will be decided by the trial Court. The applicant is in custody since March 2018. Investigation is complete and charge-sheet is filed.

7 Considering the aforesaid, the application is allowed on the following terms and conditions :

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 15,000/- with one or two sureties in the like amount;
- (ii) The applicant shall attend the concerned Police Station on the first Saturday of every month from 10:00 a.m. to 11:00 a.m, for a period of 24 months from the date of his release;
- (iii) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (iv) The applicant shall inform his latest place of residence and mobile contact number and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;
- (v) The applicant to cooperate with the conduct of the trial and attend all the dates before the trial Court, unless exempted;

(vi) The applicant shall file an undertaking with regard to clauses (ii) to (v) in the trial Court, within two weeks of his release;

(vii) If there are two consecutive defaults either in attending the Police Station or in appearing before the trial Court, or breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

8 The application is accordingly disposed of.

9 It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

10 All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.