

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

**CRIMINAL BAIL APPLICATION NO. 1023 OF 2019
WITH
CRIMINAL APPLICATION NO. 860 OF 2019**

Harish Sanjay Begi ...Applicant

Vs.

State of Maharashtra ...Respondent

- Mr. Kripashankar Pandey, Advocate for the Applicant.
- Mr. Aniket Nikam I/b Mr. Vivek N. Arote, Advocate for Intervener in APPP 860/19.
- Mr. Prashant Jadhav, APP for the State.
- Mr. Dinesh Gurjar, PSI, Wanwadi Police Station, Pune City.

CORAM : SARANG V. KOTWAL, J.

DATE : 29th JULY, 2019

P.C. :

1. The applicant is seeking his bail in connection with CR No. 428/18 registered at Wanwadi Police Station, Pune under Sections 306, 304-B, 498-A, 323, 504 read with 34 of the IPC and under Sections 3 and 4 of the Dowry Prohibition Act, 1961. The FIR in this case is lodged by the mother of the deceased.

2. The informant has stated in her statement that the applicant got married with the deceased in the year 2014 and they have a

son from their wedlock. On 25th October 2018, the informant's daughter committed suicide by hanging herself. It is mentioned in the FIR that at the time of marriage, the informant had given 25 tolas of gold to the deceased and 10 tolas of the gold to the applicant. The informant had also given a Swift car to the applicant. It is mentioned in the FIR that applicant and his parents used to consistently demand money and if money was not paid then the deceased was harassed. The informant had given Rupees Twenty Lakhs in the year 2015. After every such payment, the applicant and his family used to treat the deceased properly for a few days, but again they used to start harassing her. It is mentioned in the FIR that on the suggestion of the informant, the applicant had taken Rupees Six Lakhs from a builder by name Asif Shaikh. Even after that the deceased was treated properly only for a few days and again the harassment started. Deceased had left her matrimonial house and had started residing with the informant in September 2017, but thereafter the applicant took her back after tendering apology.

3. It is the case of the informant that, finally the resources of

the informant were getting over and she could not fulfill the demands of the applicant's family. The harassment of the deceased continued and she committed suicide on 25th October 2018. There are allegations against the parents and sister of the applicant in the FIR.

4. The applicant was arrested on 26th October 2018 and since then he is in custody. The investigation is over and the charge-sheet is filed. The charge-sheet contains the statement of cousin Sachin Sarsar and sister Simran. These statements are on the similar lines as the FIR. There is statement of one builder Asif Shaikh which shows that the informant had entered into some transaction with him and the applicant had brought about that transaction. The applicant had obtained some commission from the builder.

5. There is one important statement of the maid servant Reshma Bhosale, wherein this witness has stated that the applicant used to assault the deceased on many occasions. The statement also mentions that even the parents and sister of the applicant used to abuse and ill-treat the deceased. They were harassing her

on the ground of demand of money and ornaments. This witness has stated that, on 25th October 2018, at about 2.00 p.m., the applicant and his son had gone to the house of applicant's mother. After some time, deceased had received a phone call from the applicant. At that time there was a quarrel through their telephonic conversation. This witness has stated that the deceased was upset and accused the applicant for being addicted to liquor. There was exchange of abuses. At that time, the deceased was very upset. Shortly thereafter, in the evening, when no one was at home, the deceased committed suicide.

6. There is a statement of one Antara Ingale, who was a friend of the deceased. Her statement shows that the deceased used to complain against the parents of the applicant. She has mentioned that, on one occasion, the father of the applicant had misbehaved indecently with the deceased and at that time instead of taking her side, the applicant had assaulted her. The main allegation in her statement are against the father-in-law, mother-in-law and sister-in-law of the deceased. There are allegations that mother-in-law and sister-in-law had also assaulted her. This statement shows that

this witnesses had tried to have a discussion with the applicant. The applicant had assured her that he was trying to sort out things. In short, the statement is somewhat in favour of the applicant because it is mentioned that the applicant was also making efforts to see that the problems were sorted out.

7. Heard, Mr. Pandey, learned counsel for the applicant, Mr. Nikam, learned counsel for the intervener and Mr. Jadhav, learned APP for the State.

8. Learned counsel for the applicant submitted that the allegations in the FIR and in the statements of the family are general in nature. There are no specific allegations mentioned in their statement. The only incriminating statement is that of the house maid, which shows that the last conversation of the couple had triggered the commission of the suicide. The statement of the builder shows that the applicant had taken commission and that money was not directly received from the informant.

9. Mr. Nikam, learned counsel for the intervener as well as Mr. Jadhav, Learned APP submitted that the offence is serious. The offence under the Dowry Prohibition Act and offence under

Section 304(B) are clearly made out because the deceased committed suicide under those circumstances. She has met with an unnatural death.

10. I have considered these submissions. The cause of death is mentioned as 'asphyxia due to hanging'. There are no detailed allegations against the present applicant. The allegations made by the family members of the deceased, i.e. mother, cousin and sister are general in nature. No specific incidents are mentioned. The statement of the builder shows that the applicant had taken commission and that particular transaction may not to be related to demand of dowry. Similarly, the statement of the friend of deceased, Antara Ingale, shows that the role of the other accused who are on bail was more serious. There is a reference that applicant had assaulted the deceased but otherwise there is also reference to the assurance given by the applicant that he would try solving the problem.

11. The applicant is in custody since 26th October 2018.³ He does not have criminal antecedents. Further custody of the applicant till the conclusion of the trial will not serve any purpose.

The allegations in the FIR and the statements of the family members are mostly general in nature. Though at this stage, there is material to attract provisions of various sections applied in this case, further custody of the applicant till conclusion of the trial is not necessary. The immediate cause of the incident appears to be the phone call between the couple in which the deceased was making allegations against the present applicant. Prior to that, no particular incident is mentioned to establish the link between commission of suicide and the harassment caused to her.

12. In this view of the matter, at this stage, I am inclined to grant bail to the applicant. Needless to mention that all these observations are made only for the decision of this application and the trial court shall not be in any manner influenced by the observations made in this order. Hence, the following order:-

ORDER

(i) The Applicant is directed to be released on bail in connection with C.R. No. 428/18 registered at Wanwadi Police Station, Pune, 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 accordingly.

(iii) Criminal Application No. 860/19 is also disposed of accordingly.

SARANG V. KOTWAL, J.)