

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.1172 OF 2019

Umesh Sukdev Bhavale	]	... Applicant
Versus		
The State of Maharashtra	]	... Respondent

Mr. Aniket Nikam, Advocate for the Applicant.
Mr. Prashant Jadhav, APP for the State/Respondent.
PSI H.D. Raut attached to Satpur Police Station, Nashik City present.

CORAM :- SARANG V. KOTWAL, J.
DATE :- 26th AUGUST, 2019.

P. C. :-

1. The applicant is seeking his release on bail in connection with C.R.No.01/2019 registered with Satpur Police Station, Nashik u/sec. 304 B, 306, 498 A, 323, 504, 506 r/w 34 of I.P.C.

2. The FIR is lodged on 01/01/2019 by one Ganesh Kharjul who is brother of deceased Nilima. Nilima had got married with the present applicant on 06/05/2018. The informant has stated in his report that, he had spent Rs.10 Lakhs for expenses during marriage. Initially, Nilima was treated properly. But thereafter, all the family members of the applicant including him, started ill treating her. The informant met the family members. At that time wives of applicant's brothers

Sandip and Kiran namely Gayatri and Sonali respectively told him that, the deceased did not know how to behave. She was not in the same class as them and they were unhappy because the informant did not pay dowry. The informant tried to reason with Gayatri and Sonali. Thereafter, he left from there. After few days, deceased called him again. The informant went to her house, that time one Balasaheb Bandavane who was father of Gayatri and Sonali was present there. He started making complaints against the informant's brother. Balasaheb threatened the deceased and spoke arrogantly with her and the informant. He emphasized that everyone in the house was under his thumb and they had to listen to whatever he said. When he was expressing all this, the applicant and other family members were present. But none of them stopped Balasaheb from saying all these things. It is further alleged that, all of them including the present applicant started ill treating the deceased. After a few days Gayatri and Sonali asked the deceased to bring Rs.5 Lakhs from the informant. The informant somehow collected Rs. 1 Lakh and paid that amount to Gayatri and Sonali. But they were not satisfied. Balasaheb came there and again abused, insulted and humiliated the deceased in front of everybody. The applicant did not stop all this. The deceased was

asked by the applicant and others to intervene and stop Balasaheb from abusing. However, nobody from the family members stopped him. In December 2018, Sonali, Gayatri and Balasaheb took her to some person and she was forced to undergo some black magic rituals. Even then the applicant did not intervene. The deceased told the informant that, the applicant was afraid of other family members. He was not taking any decision himself and the deceased could not tolerate this any further. On 31/12/2018, she committed suicide by hanging herself. On this basis, the FIR is lodged.

3. The investigation was carried out and the applicant was arrested on 01/01/2019 itself. Since then he is in custody. The investigation is over and the charge-sheet is filed.

4. Heard Mr. Aniket Nikam, Ld. Counsel for the Applicant and Mr.Prashant Jadhav, Ld. APP for the State/Respondent.

5. Mr. Nikam submitted that, bare reading of the FIR shows that, the applicant was scared of the other family members and in particular of one Balasaheb. The main grievance is against Balasaheb,

Sonali and Gayatri. There are no specific allegations against the present applicant. He submitted that, the postmortem notes shows the cause of death as “Death due to Hanging”. The applicant cannot be held responsible for the same. He submitted that, the charge-sheet itself contains the messages exchanged by the couple. These messages clarify that, the applicant was trying to calm her down and was trying to support her. He submitted that no case of abetment is made out against the applicant.

6. Ld. APP submitted that, it is the case of dowry death. The present applicant is the husband of the deceased and bail should not be granted. He submitted that, there are allegations of ill treatment at the hands of the present applicant as well. He therefore opposed the grant of bail to the present applicant.

7. I have considered these submissions. Though there are general allegations that, the applicant has also taken part in ill treating the deceased, the specific incidents are not mentioned in the FIR. The informant's statement is corroborated by the statement of one Sahebrao Bhikaji Kharjul who was uncle of the deceased. That

statement is also similar to that of the informant. He has categorically stated that, the applicant was afraid of all other family members and he did not prevent anybody from ill treating the deceased. There are statements of neighbours viz., Bibabai Shinde, Nikita Shinde, Pooja Shinde and Aarti Shinde. One of them has stated that, the applicant was not ill treating the deceased. Thus, considering the entire material on record, it does not appear that, the applicant himself was ill treating the deceased. Though he could not prevent the others from ill treating her. The FIR shows that, the amount given by the informant was taken by Gayatri and Sonali. Thus, the demand was not made by the present applicant. The messages exchanged between the couple shows that, the applicant was helpless and was not the offender. Ultimately the applicant should have shown courage and protected the deceased from ill treatment at the hands of family members. But his inability to do so will not amount to abetment of commission of suicide. In this view of the matter, further detention of the applicant during trial is not necessary. Therefore, I am inclined to grant bail to the applicant. Hence, the following order.

ORDER

1. The Applicant is directed to be released on bail in connection with C.R.No.01/2019 registered with Satpur Police Station, Nashik, on his furnishing P.R.Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
2. Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)