

Anand

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

**ANTICIPATORY BAIL APPLICATION NO. 1380 OF 2019**

Moinuddin Mohd. Yusuf Kotkunde .Applicant

Vs.

The State of Maharashtra & anr. .Respondents

**WITH  
ANTICIPATORY BAIL APPLICATION NO. 1351 OF 2019**

Mohd. Yusuf Nabilal Kotkunde & ors. .Applicants

Vs.

The State of Maharashtra & anr. .Respondents

Mr. Ganesh Gole i/b. Mr. Balvant W. Kakade, Advocate, for the  
Applicants

Mrs. P. P. Shinde, APP, for the Respondent – State

Ms Shweta Patil, PSI, R. C. F. Police Station, Mumbai present

**CORAM : REVATI MOHITE DERE, J.**

**DATE : 11.07.2019**

**P.C.**

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks pre-arrest bail in  
connection with C. R. No. 142 of 2019 registered with the R. C. F.  
Police Station, Mumbai, for the alleged offences punishable under

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Sections 498A, 506, 306, 323 r/w 34 of the Indian Penal Code.

3. Learned counsel for the Applicant submits that the Applicant and Sana ( deceased ) got married on 25.04.2014 and that from the said wedlock, two children were born, who are now aged 4 years and 3 years respectively. Learned counsel further submits that the allegations made in the FIR pertain to a period much prior to the date of the incident i. e. about one and half to three years prior. He submitted that the allegations made as against the Applicant are not sufficient to constitute the offences punishable under Section 306 or under Section 498A of the Indian Penal Code. He further submitted that in the suicide note, there is a reference made to an incident which took place in Ramzan and that the said incident pertains to 2018 and not 2019.

4. Learned APP on instructions states that the incident mentioned in the suicide note pertains to the year 2018, which took place during Ramzan. Prima facie, it appears that the incident mentioned in the FIR relates to an incident much prior to the date of the incident and not recent one. Whether or not the offence would be one under Section 306, is a matter which will be decided by the trial Court. Suffice to state that in the facts, custodial interrogation of the Applicant

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is not warranted. Accordingly, the order dated 27.06.2019 stands confirmed and the Applicants are enlarged on bail on the following terms & conditions :-

**O R D E R**

- (i) The Applicants be enlarged on bail, on executing P. R. Bond in the sum of Rs. 25,000/- each with one or two sureties in the like amount;
- (ii) The Applicants shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (iii) The Applicants shall inform their latest place of residence and mobile contact number immediately after being released 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;
- (iv) The applicant to cooperate with the conduct of the trial;
- (v) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the Applicant's bail.

5. The Applications are allowed in the aforesaid terms and

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are accordingly disposed of.

6. 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.

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

**(REVATI MOHITE DERE, J.)**