

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

CRIMINAL BAIL APPLICATION NO. 2016 OF 2019

Ganesh Narayan Jadhav

...Applicant

Vs.

State of Maharashtra

...Respondent

- Mr. Vishal L. Kolekar, Advocate for the Applicant.
- Mr. S.S.Pednekar, APP for the State.

CORAM : SARANG V. KOTWAL, J.

DATE : 1st AUGUST, 2019

P.C. :

1. The applicant is seeking his release on bail in connection with CR No. 442/18 registered at Dehu Road Police Station. Initially the offence was registered under Sections 498A, 323,324, 504, 506 read with 34 of the IPC. However, at the time of filing of the charge-sheet, Section 302 of the IPC was also added.

2. In this case, the FIR was lodged by the mother, Shanta Pawar, of the deceased Monika. She has stated in her FIR that in the year 2015 the deceased got married to her husband, Somnath. The present applicant is Somnath's brother. The couple was blessed with a daughter in the year 2017. When the deceased had

come for delivery to her maternal place, that time she told the first informant that her husband, husband's parents and the present applicant were ill-treating, assaulting, and abusing her. On the demand of one mangalsutra. It is further mentioned in the FIR that on 12th August 2018, the deceased was brought to the informant's house by her husband. She told her that since she was missing the informant she had come to her maternal house. At that time she was looking very frail. The deceased stayed at her house. In the night, the deceased complained that she was having pains in stomach and was having body-ache. On the next day morning, she was taken to the Ratna Hospital, Pune by the first informant, her son and other relatives. Doctor examined Monika and found that she had suffered burn injuries on her stomach and other body parts. Her legs had turned blue and black. The informant was convinced that deceased was assaulted and therefore, she approached the police station and lodged her FIR under Section 498A of the IPC.

3. On the next day, i.e., on 14th August 2018, deceased expired. Therefore, Section 302 of IPC was added. The applicant was

arrested on 17th August 2018 and since then he is in custody. The investigation was conducted and charge-sheet is filed.

4. Heard, Mr. Vishal Kolekar, learned counsel for the applicant and Mr. Pednekar, learned APP for the State.

5. Learned counsel for the applicant submitted that there are only general allegations against the present applicant pertaining to Section 498A of the IPC. There is absolutely no evidence against the applicant connecting him with the alleged offence of murder. He invited my attention to the notes in the medical papers, wherein only the husband was blamed for alleged assault on the deceased.

6. As against these submissions, learned APP submitted that the statements in the FIR are sufficient to connect the present applicant with the alleged offence. He opposed the grant bail to the applicant.

7. I have considered these submissions. This is a strange case wherein even the first informant had not noticed the injuries and seriousness of the medical condition of her daughter. The deceased had not told her anything about her injuries and therefore, there is

no occasion for the informant to ask her regarding the cause of her body-ache and injuries. It is only after she was admitted in the hospital, the informant came to know that there were burn injuries on the person of the deceased. By that time the deceased was not in a position to speak anything. The medical papers show that the history was given by the first informant, wherein it was mentioned that assault was committed by the husband two days ago. There is no reference to the present applicant or the parents of the husband. The cause of death is mentioned in the postmortem notes as "Septicemic Shock following multiple burn injures". The postmortem notes show that there were injuries in the nature of contusions on head and thigh of the deceased. As per the history given to the medical officer those injuries were attributed to the husband of the deceased. The prosecution case does not throw light as to how incident of assault had taken place and does not indicate the place where the assault had taken place. There is nothing to show that the applicant was in any manner connected with the injuries suffered by the deceased. The deceased was left at her matrimonial house by her husband himself. The deceased

thereafter had not told the informant that she was assaulted. The FIR lodged is only on suspicion. There are general allegations that the deceased was harassed by all the accused on the ground that the deceased had not brought mangalsutra. It is a small piece of ornament, which does not have too much monetary value, for which the deceased could be ill-treated so much. The informant had implicated all the family members of the husband of the deceased only on suspicion. It appears that FIR is lodged on suspicion. The FIR initially was lodged only under Sections 498A and 323, 324, 504, 506 read with 34 of the IPC. Section 302 was added subsequently.

8. Considering all these, it is clear that there is hardly any evidence against the present applicant connecting him with the offence of murder. The allegations in respect of Section 498A of the IPC are general in nature. The applicant is already in custody for nearly one year.

9. In this view of the matter, the applicant has made out a case for his release on bail. Hence, the following order:-

ORDER

- (i) The Applicant is directed to be released on bail in connection with C.R. No. 442/18 registered at Dehu Road Police Station, 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.

(SARANG V. KOTWAL, J.)