

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

CRIMINAL BAIL APPLICATION NO. 2346 OF 2019

Zahid @ Javed s/o. Aftab Qureshi

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Arvind Kumar Jaiswar , Advocate for the Applicant.

Mr. Ajay Patil, A.P.P. for the Respondent-State.

P.I. Mane, Dharavi Police Station present.

CORAM : SANDEEP K. SHINDE, J.

DATE : 14th NOVEMBER 2019.

P.C.

1 Heard learned counsel for the applicant and learned A.P.P. for the Respondent – State.

2 Applicant is seeking enlargement on bail in Crime No.71 of 2019 registered with the Dharavi Police Station, Mumbai for the alleged offences punishable under Sections 498A, 304-B, 306, 323, 504 and 506 read with Section 34 of the Indian Penal Code, 1860 ('**IPC**' for short) and Sections 3 and 4 of the Dowry Prohibition Act.

3 The applicant is husband of deceased Chamanara. Deceaseds' brother reported to police, that applicant (husband of deceased) and his relatives were recurringly harassing his sister for non fulfillment of

unlawful demand, much less dowry, soon after her marriage in May 2015.

4 Deceased suffered septicemia superficial deep burns (unnatural) and succumbed to death on 22nd February 2019. On 18th February 2019 her dying declaration was recorded. Doctor Vishal certified patient was conscious and well oriented. I have perused the dying declaration wherein, she did not blame anyone, but said she set herself ablaze.

5 Learned counsel for the applicant has relied on the dying declaration. He submitted that, there is no evidence to suggest that the applicant, in any manner has intentionally aided / abated his wife to commit suicide. It is submitted that, relatives of the applicant are released on the bail. He submits that, charge-sheet has been filed and trial is not likely to commence in the near future. On this grounds bail is sought.

6 Learned A.P.P. has opposed the application by relying on the Provisions of Section 113-A and 113-B of the Indian Evidence Act, 1872, since the deceased suffered unnatural death within seven years of her marriage.

7 I have perused the dying declaration. Deceased did not blame the applicant for the incident. Thus, except statement of her brother that,

applicant was demanding sum of Rs.40,000/- and that too in June 2017 for purchasing a bigger house, there is no other material against the applicant. Applicant is in custody since March 2019. Investigation is over. Applicant's presence for trial can be secured by imposing appropriate condition.

8 In view of this, applicant is directed to be released on bail on the following terms and conditions :

ORDER

- (i) The applicant is directed to be enlarged on bail on executing P.R. Bond in the sum of Rs.50,000/- with one or more sureties in the like amount;
- (ii) The applicant shall attend the concerned Police Station on the first Saturday of every month between 10:00 a.m. to 11:00 a.m. for a year;
- (iii) The applicant shall furnish particulars of his present, of native place, address and his mobile number to the Investigating Officer within seven days from today;
- (iv) The applicant to cooperate with the conduct of the trial and attend all the dates before the trial Court, unless exempted.

(v) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

9 The application is allowed in the aforesaid terms and is accordingly disposed of.

10 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.

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

(SANDEEP K. SHINDE, J.)