

Vat

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

BAIL APPLICATION No. 2555 OF 2019

Abdul Usman Shaikh

...Applicant

Vs.

The State of Maharashtra

...Respondent

Mr. Aniket Nikam i/b. Vivek N. Arote for Applicant

Mr. Prashant Jadhav, APP for State/ Respondent

CORAM : SARANG V. KOTWAL, J.

DATE : OCTOBER 14, 2019

P.C.:

1. The Applicant is seeking his release on bail in connection with C.R. No. 230/2018 registered with Dighi Police Station on 13th September, 2018 under Section 498(A), 306 r/w. 34 of Indian Penal Code. Subsequently 304-B of Indian Penal Code is also added.

2. The Applicant was arrested on 31st December, 2018 and since then he is in custody. The investigation is over and the charge-sheet is already filed. The prosecution case is in respect of suicide committed by deceased Irfana. The FIR is lodged by Irfana's father Mehboob Farid Shaikh. He has stated that the Applicant and Irfana got married on 23rd April, 2018 and at the time of marriage, he had incurred all the marriage expenses and had purchased ornaments

for the deceased. After about 1 month, after the marriage, the deceased told him on telephone that her mother-in-law and father-in-law had purchased a plot at Pune and they wanted money. They were telling her to sell her ornaments. The informant called Irfana's father-in-law and requested him not to sell the ornaments. It is the case of the informant that Irfana was complaining about the harassment caused to her on that ground. On 10th of September, 2018, she died in suspicious circumstances. The opinion for cause of death was reserved and the informant, therefore, lodged the FIR against the Applicant and his family members. The final cause of death was given by the Medical Officer on 25th March, 2019, in which it was mentioned that she had died due to "*Asphyxia due to Hanging*". Thus it was clear that the deceased had committed suicide by hanging herself.

3. I heard Shri Nikam, learned counsel for the Applicant and Shri Jadhav, learned APP for the State.

4. Shri Nikam submitted that there are only general allegations against the Applicant. He submitted that the main allegations are directed against the parents and the brother of the Applicant. He submitted that the statement of Irfana's sister actually shows that the Applicant was trying to protect her. He further submitted that

after knowing about the death of Irfana, the Applicant became unconscious in the hospital. It shows that he did not have any intention that the deceased should take such a step of committing suicide.

5. Learned APP submitted that after marriage, the deceased committed suicide within a period of six months. Therefore, there is a presumption against the Applicant for commission of that offence. He submitted that the Informant and the other witnesses have consistently stated that the deceased was harassing her on account of demand of money.

6. I have gone through the statements of witnesses and also postmortem report. In the postmortem report, the cause of death was mentioned as "*Asphyxia due to Hanging*". Thus, it is clear that the deceased had committed suicide by hanging herself.

7. There are statements of neighbors viz. Vikram Pandhare, Murlidhar Patil, Pushpa Rathod, recorded during the course of investigation. However, they have not deposed that the Applicant was harassing her in any manner. Pushpa Rathod had given a supplementary statement on 30th January, 2019, wherein she has described the incident which had occurred on 10th September,

2018 when the deceased had committed suicide. On that date at about 10.00 a.m. she heard shouts of Applicant's mother Hurbano seeking help of this witness and her husband. When this witness and her husband went there, there were only Irfana and Hurbano present in the house. Irfana was not responding, Hurbano was trying to take her to ground floor. This witness and her husband called others and took Irfana to the hospital. Pushpa's husband Santosh Rathod had also given his statement on 30th January, 2019. He has stated that when Irfana was removed to YCM Hospital in Emergency Ward, he informed the Applicant. Applicant came there within short time and when he came to know that Irfana had already died, he fainted. He was given treatment in the hospital.

8. There is a statement of Irfana's sister Asma recorded on 26th February, 2019. She has stated in that statement that Irfana had told her that the Applicant's brother Amin was misbehaving with Irfana. When Irfana complained about this fact to the Applicant, there was quarrel between the Applicant and his brother. At that time, Irfana's mother-in-law took side of Amin and scolded Irfana. The mother-in-law used to harass her. Thus, Asma's statement supports the contention of Shri Nikam that the Applicant was

trying to protect the deceased and not causing any harassment. Statement of another sister Hazra mentions a little more details about the harassment caused to deceased Irfana. On one occasion the Applicant and Irfana had come to Irfana's parental house, this witness was present there. Irfana told her that her in-laws were harassing her. She elaborated the cause of harassment at the hands of her mother-in-law and father-in-law. Hazra, thereafter requested the Applicant to look after Irfana. These statements show that the harassment was actually caused by other family members of the Applicant and not by the Applicant. Except the general allegations made by the Informant, Irfana's mother and sisters statements described the harassment caused to her. Therefore, the other members are blamed for the harassment.

9. Taking into consideration all these facts and also taking into consideration the statements/allegations made by the witnesses about the harassment at the hands of the parents and brother of the Applicants, which are more serious in nature, I am inclined to grant bail to the Applicant. Hence, following order:

ORDER

- (i) The Applicant be released on bail in connection with C.R. No. 230/2018 registered with Dighi Police Station on his

furnishing P.R. Bond of Rs.25,000/-with one or two sureties in the like amount.

- (ii) Bail Application is disposed of accordingly.

[SARANG V. KOTWAL, J.]

V.A. Tikam