

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

CRIMINAL BAIL APPLICATION NO.2569 OF 2019

Bhagvan Jagannath Kokare Applicant

versus

The State of Maharashtra Respondent

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- Mr.Prithviraj S. Gole, Advocate for Applicant.
- Ms.S.S. Kaushik, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 17th OCTOBER, 2019

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.69/19 registered with Medha Police Station, Satara, under sections 306, 324, 498-A, 504, 506 r/w 34 of the Indian Penal Code.

2. The FIR is lodged by the father of the deceased Swati Bhagwan Kokare. He has stated in his FIR that Swati had got married with the Applicant on 20/05/2017. Initially she was treated properly but her after one year of her marriage, the

Applicant and his parents started harassing her because she was unable to conceive. The deceased used to tell the informant about this telephonically and whenever she visited the informant at his house. About two months before the incident, the Applicant had left the deceased with the informant and had told him that Swati had consumed some poisonous substance. The deceased denied this and stated that there was something wrong with the food. She stayed with the informant for a few days. She was complaining that the Applicant was having some affair with another lady and when questioned he used to beat her. After a few days, the informant had a discussion with the Applicant and his father. The Applicant assured him that the deceased would be treated properly and thereafter the informant allowed his daughter to go to her matrimonial house. On 06/05/2019, the informant received a phone call of Police Patil Ramchandra Kokare of Vele-Dhen village. He told the informant that the deceased Swati had gone to fetch water. She had fainted. The informant received another phone call within an hour and he was told that Swati had died. Her dead body was taken to Civil

Hospital, Satara. The informant thereafter gave his FIR on 07/05/2019. The investigation is over and the charge-sheet is filed. Since the date of his arrest, the Applicant is in custody.

3. Heard learned Counsel Mr.Prithviraj S. Gole for the Applicant and learned APP Ms.S.S. Kaushik for the State.
4. Learned Counsel Mr.Gole has tendered additional documents containing post-mortem notes and viscera report and the document showing cause of death. That compilation is taken on record.
5. Learned Counsel for the Applicant submitted that the FIR does not show that the deceased was harassed to such an extent that such harassment would be covered u/s 498-A of IPC. He submitted that the statements of neighbour of the Applicant show that there was no harassment. He submitted that the cause of death shows that it was neither suicide or homicide, but it was a natural death. He therefore submitted that the Applicant deserves to be released on bail.

6. Learned APP opposed this application and relied on the FIR as well as the statements of informant's relatives.

7. I have considered these submissions. The statement in the FIR is supported by the informant's wife Mangal Chimaji Jankar, Police Patil Ramchandra Nana Kokare, relative Shrirang Ramchandra Jankar, Pandurang Ramchandra Shinde etc. They have more or less narrated the same story as stated by the first informant. On the other hand, there are statements of the villagers from the Applicant's village. They have stated that the Applicant's family has not accepted any dowry. They have not spoken about any harassment caused to the deceased. Police Patil Ramchandra Kokare was Police Patil of the village for about 30 years before his retirement. His statement is supported by the other villagers namely Shamrao Kondiba Kokare, Maruti Bajrang Kokare, Laxman Govind Kokare, Dhondiba Kondiba Kokare etc. They have specifically stated that the Applicant's family did not make any demand from the deceased or his family. All of them

have stated that when the deceased had gone to fetch water, she had fainted and thereafter she was taken to hospital in an Ambulance. In the Ambulance itself she was declared dead.

8. These statements show that neither offence u/s 498-A nor any other offence is spelt out against the Applicant. More importantly, the post-mortem notes show that there was no injury on the dead body. The viscera was preserved for the analysis. The chemical analysis shows that no poison was detected in the blood or viscera. The final cause of the death was mentioned as 'Pulmonary Edema'. Thus, even the expert's opinion does not show that it was a case of either suicide or homicide. The opinion shows that she had died because of 'Pulmonary Edema'. Hence the evidence does not show commission of any offence by the Applicant.

9. Of course, the trial Court shall consider all these aspects on their own merits without being influenced by these observations. However, at this stage, the Applicant has

sufficiently made out the 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.69/19 registered with Medha Police Station, Satara, 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.)