

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

CRIMINAL BAIL APPLICATION NO. 2979 OF 2018

Sunil Kashinath Thore ... Applicant

Versus

The State of Maharashtra ... Respondent

Mr. Abhishek C. Deshpande for Applicant.
Mr. A. A. Palkar, APP for Respondent – State.

CORAM : NITIN W. SAMBRE, J.
DATE : JANUARY 10, 2019.

P.C. :

. In Crime No. 69 of 2018 for an offence punishable under Sections 302, 498-A, 323, 504 & 345 of the Indian Penal Code, the Applicant is seeking regular bail.

2. After the arrest of the Applicant on May 3, 2018, the Applicant came to be chargesheeted along with his parents.

3. The allegations against the Applicant is that he was married to deceased Jyoti in 2006 and the Applicant used to doubt chastity of his deceased wife Jyoti and assault her for non-fulfillment of demand of dowry.

4. The learned Counsel for Applicant submits that after the arrest of the Applicant on May 3, 2018, he was subjected to custodial interrogation. The statement of the child of the deceased and the Applicant in categorical terms speaks of only assault by the Applicant who at the relevant time was sleeping with the Applicant and the deceased wife. According to the learned Counsel, at the most an offence under Section 306 of the Indian Penal Code could have been lodged.

5. The learned APP opposed the claim on the ground that the forensic science laboratory report speaks of the presence of insecticides in the body of the deceased. According to the learned APP the Applicant was in custody of the deceased. The presumption is against the Applicant.

6. Having considered rival submissions what is noticed is, in the statement of the child namely, Devyani – the daughter of the Applicant and the deceased, there is no mention about the administration of poison. The only reference is to the assault made by the Applicant. The post-mortem report does not reflect any external injury on the body of the deceased so as to infer physical violence before administration of poison.

7. In view of above, in my opinion, whether a case can be considered for an offence punishable under Sections 302 or 306 of the Indian Penal Code, is an arguable issue which can be gone into at the stage of the trial.

8. In the aforesaid background, in my opinion, a case for grant of bail is made out. Hence, the following order.

ORDER

- (A) The Applicant be released on bail in Crime No. 69 of 2018 for an offence punishable under Sections 302, 498-A, 323, 504 and 345 of the Indian Penal Code on executing PR Bond of Rs.25,000/- with two sureties in the like amount.
- (B) The Applicant shall neither tamper the evidence of prosecution nor influence the prosecution witnesses.
- (C) Two consecutive absence during the trial will entail the trial Court to call for cancellation of bail.

9. Criminal Bail Application stands disposed of accordingly.

(NITIN W. SAMBRE, J.)