

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.67 OF 2021

Parmeshwar s/o Sukhlal Chavan ... Applicant

Versus

The State of Maharashtra ... Respondent

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Mr. S. R. Bagal h/f Mr. B. N. Gadegaonkar, Advocate for the applicant.
Mrs. D. S. Jape for respondent – State.

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WITH
CRIMINAL APPLICATION NO.348 OF 2021
IN BA/67/2021

Narayan s/o Devilal Pawar ... Applicant

Versus

1. The State of Maharashtra
2. Parmeshwar s/o Sukhlal Chavan ... Respondents

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Mr. M. L. Wankhade, Advocate for the applicant – original informant.
Mrs. D. S. Jape for respondent No.1 – State.
Mr. S. R. Bagal h/f Mr. B. N. Gadegaonkar, Advocate for the applicant.

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CORAM : SMT. VIBHA KANKANWADI, J.

Reserved on : 11th February, 2021

Pronounced on : 23rd February, 2021

ORDER :-

. Applicant in Bail Application No. 67 of 2012 has been
arrested in connection with Crime No.574 of 2020 dated 13-12-2020

registered with Ambad Police Station, Taluka Ambad, District Jalna for the offences punishable under Sections 498-A, 306, 323 read with 34 of Indian Penal Code. He has filed present application for bail under Section 439 of the Code of Criminal Procedure.

2. Heard learned Advocate Mr. S. R. Bagal holding for learned Advocate Mr. B. N. Gadegaonkar for the applicant, learned APP Mrs. D. S. Jape for respondent – State assisted by learned Advocate Mr. M. L. Wankhade representing the original informant.

3. It has been vehemently submitted on behalf of the applicant that the applicant is the husband of the deceased. They got married about 10 years prior to the incident. They have son aged 7 years and two daughters. FIR has been lodged by the brother of deceased Kavita. Now, he says that since the date of marriage, the husband, parents-in-law, brother-in-law and his wife used to harass Kavita by stating that she is not able to do household work. Whenever she used to come to parental house, she used to give the account of ill-treatment by the accused persons to her. The informant used to persuade the accused persons that they should not ill-treat his sister. Thereafter, he states that there was a quarrel between deceased and the applicant on 25-05-2020 and thereafter, deceased had stayed with him for about a month. At the time of last Diwali, it is stated that the present applicant and co-accused

started demanding amount of Rs.10,000/- from Kavita. He received information at about 2.00 p.m. on 13-12-2020 that Kavita has consumed medicine and she has been taken to Jalna. When informant went to Jalna, she had expired. She had sustained injury to her right leg. There were signs of assault on her cheek and back. He has stated that due to the ill-treatment, deceased consumed poisonous substance and committed suicide.

4. Learned Advocate appearing for the applicant further submitted that, in fact, there is no direct evidence showing that the applicant used to assault or ill-treat deceased. During the 10 long years of marriage, there was not a single complaint that was lodged by her. There are three children born out of the wedlock and it appears that they were happily married. Now, with some ulterior motive, the applicant has been falsely implicated. Substantial part of the investigation is over. Co-accused have been released on bail and, therefore, the applicant be granted bail.

5. Per contra, the learned APP well assisted by learned Advocate representing the original informant strongly opposed the application and submitted that the statements of witnesses would show that they are giving the same account as per the FIR. Merely because earlier no complaint was lodged for the ill-treatment, that does not

mean that she was never harassed. The postmortem report states about the findings as poisoning, however, the viscera has been preserved. The plastic bottle of Monocrotophos 36% S.L. was recovered from the house. When there is ample evidence, the applicant does not deserve any discretionary relief.

6. At the outset, it is to be noted that the prosecution has come with the case that it was suicide. The informant has filed on record photographs of the deceased and it shows that there was bleeding injury to the right toe and the nearby area, so also there is injury to the left hand. Taking into consideration this photograph, inquiry was made with the Investigating Officer that whether he has reached to any such conclusion which would disclose that there is possibility of addition of Section 302 of Indian Penal Code. But then he is relying upon the statement of son of the deceased and also statement of witness Bibhishan Aasaram Chavan. Witness Bibhishan has stated that after they found deceased in unconscious state, then he with present applicant took her on motorcycle to Civil Hospital, Ambad, however, since she was unconscious, her right leg got dragged on the road and as a result of which, she has sustained injury. It is to be noted that the Investigating Officer appears to be too quick in relying upon the statements of witnesses and do not want to have a crosscheck about the

fact which has been stated by the witnesses. Statement of son of the deceased has been recorded about three days after the incident and he is only 8 years of age. The Investigating Officer should take into consideration the possibility of tampering and should have crosschecked before making any submission about the addition of any further offence or not. He could have crosschecked the statement of Bibhishan with the medical officer. In fact, the glaring fact that will have to be observed at this stage itself that when inquest panchanama was drawn by one Head Constable at Medical Police Chowki, Jalna, while describing clause No.7, he has stated that there is no injury on the body. He has not stated position of the injury on the right or left hand. Even in respect of right leg, he has not stated about apparent injuries which are seen in the photographs and those injuries were noted in the postmortem which were in respect of right toe. Such lacunas have been left by the investigation at this stage itself. It appears that the police have taken the things very casually. Such approach is definitely required to be deprecated.

7. Now, we are concerned with whether to grant bail to the present applicant or not. The applicant got married with deceased about 10 years prior to the FIR. Details of the harassment are not given and taking into consideration the long duration, when no complaint is

lodged at any earlier point of time, it would be a point to be considered in favour of the applicant for grant of bail. Now, on what ground there was dispute between the applicant and deceased, when she stayed for a month after 25-05-2020 is not clear from the FIR. Thereafter, he says that at the time of Diwali of the year 2020, the applicant and co-accused had started demanding amount of Rs.10,000/-, but then the suicide is committed on 13-12-2020 i.e. after about two months. Therefore, what had happened either on 13-12-2020 or just prior to that between the accused persons and the deceased is of importance. It appears that there is no direct statement except the son of deceased who is aged 8 years, who states that deceased herself had consumed the poison and nobody has administered it. The reason for such consumption has not been stated by him. Therefore, taking into consideration the evidence that is collected, the applicant deserves to be released on bail as the substantial part of the investigation is over, but charge-sheet is not filed and it will take long time to stand his trial. Hence, the following order :-

ORDER

- 1) Bail Application No.67 of 2021 stands allowed.
- 2) Criminal Application No.348 of 2021 for assist to PP stands allowed and disposed of.

- 3) The applicant - Parmeshwar s/o Sukhlal Chavan, who has been arrested in connection with Crime No.574 of 2020 dated 13-12-2020 registered with Ambad Police Station, Taluka Ambad, District Jalna for the offences punishable under Sections 498-A, 306, 323 read with 34 of Indian Penal Code, be released on P. R. and S. B. of Rs.15,000/-.
- 4) The applicant shall not tamper with the evidence of the prosecution in any manner and shall cooperate with the investigation.
- 5) He should not indulge in any criminal activity.
- 6) Bail before Trial Court.
- 7) The observations about the defects in preparing inquest panchanama be brought to the notice of Deputy Superintendent of Police, Jalna.
- 8) Learned Registrar (Judicial) to send a copy of this order to the Deputy Superintendent of Police, Jalna.

[SMT. VIBHA KANKANWADI, J.]

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