

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1081 OF 2021

Ramesh s/o Sahebrao Warpe

Applicant

Versus

The State of Maharashtra

Respondent

Mr. S.J. Salunke, Advocate for the applicant.

Mr. S.D. Ghayal, APP for respondent/State.

Mr. S.A. Patil, Advocate holding for Mr. M.V. Salunke, Advocate for the informant.

**CORAM : M.G. SEWLIKAR, J.**

DATE : 8<sup>th</sup> October, 2021.

PER COURT :

1. This is an application under Section 439 of the Code of Criminal Procedure for releasing the applicant on bail.

2. Prosecution case as detailed in the First Information Report is that deceased Sunanda was the wife of the applicant. Their marriage was performed on 3<sup>rd</sup> December, 2019. It was agreed in the marriage that informant should gift a golden ring and should pay

cash of Rs. 2,00,000/- as and when the informant received it. Deceased Sunanda was maintained well for a period of five to six months after marriage. Thereafter, her in laws and two sisters of applicant started saying that she should bring Rs.2,00,000/- from her parents towards remaining dowry. It is further alleged that they used to harass her physically and mentally and used to pass sarcastic comments at her and used to say that her husband would beat her. At the time of Dipawali 2020, the deceased had come to her maternal place. At that time also, she had said that her husband and in laws harass her for failure to meet their unlawful demand. At the time of Dipawali 2020, applicant had come to take her back. He had taken her back to her matrimonial place at Pimpalner. After four to five days, applicant called up on the cell phone of the informant, brother of the deceased, and told him that when he had come to the maternal place of the deceased Sunanda for taking her back, the informant and his brother did not stay back. He abused saying that informant and his brother are shameless and they have no manners. Applicant and his brother-in-law had come to the place of the informant in inebriated condition. His mother offered tea to the applicant, which he refused.

3. It is further alleged that on 6<sup>th</sup> December, 2020, younger brother of the informant called up the informant and told him that deceased Sunanda had consumed poison. Thereafter informant went to the Government Hospital, Beed. He learnt in the hospital that at 2.30 pm in the field cultivated on *batai* by the applicant, the deceased had consumed poison. She was admitted in the hospital and was not in a position to speak. She died after few hours of her admission. Accordingly, First Information Report was lodged on 7<sup>th</sup> December, 2020.

4. Charge-sheet has been filed against the applicant and other members of his family under Section 498(A), 304(B), 306, 323 read with Section 34 of the Indian Penal Code.

5. Heard Shri Salunke, learned counsel for the applicant, Shri Ghayal, learned APP for the State and Shri Patil, learned counsel for the informant.

6. Shri Salunke, learned counsel for the applicant submits that general allegations are made against the applicant. No details as regards ill-treatment are mentioned in the First Information Report.

It is vaguely mentioned that all the accused used to harass the deceased. He submits that First Information Report does not say that deceased had weal marks on account of ill-treatment when she had come for Dipawali. But the witnesses say about it. He submits that if really the deceased had any such ill-treatment and she had weal marks it is a major circumstance which ought to have been mentioned in the First Information Report. He submits that the span of marriage is of one year only. He submits that considering the nature of evidence collected by the prosecution, the applicant deserves to be released on bail.

7. Shri Ghayal, learned APP and Shri Patil, learned counsel for the informant submit that the span of marriage is only of one year. All the witnesses have stated that applicant and his relatives had subjected the deceased to cruelty. They submit that Dipawali of the year 2020 was in the month of November and the deceased died on 6<sup>th</sup> December, 2020. They submit that this circumstance indicates that soon before her death, she was subjected to ill-treatment. They further submit that presumption under Section 113B of Evidence Act can be appropriately raised in this case even at the stage of bail. They placed reliance on judgments in the case of

Maya Devi and another vs. State of Haryana in Criminal Appeal No. 1263/2021, Ajay Singh vs. State reported in **1998 Cri.L.J. 3178**, Raja Lal Singh vs. State of Jharkhand reported in **AIR 2007 Supreme Court 2154**, Kashmira Devi vs. State of Uttarakhand reported in **2020 Cri.L.J. 1343**.

8. Charge-sheet has been filed. Applicant was arrested on 7<sup>th</sup> December, 2020. Therefore, further detention of the applicant is not warranted. Other accused have been released on regular bail. Admittedly, the deceased died due to consumption of poisonous substance.

9. On perusal of First Information Report, it is seen that the allegations against the applicant are general in nature. In the case of Neelu Chopra and others vs. Bharti reported in **MANU/SC/1733/2009**, the Honourable Supreme Court has dealt with this aspect of the matter. In paragraph No. 5 of the judgment, the Honourable Supreme Court has held thus :-

5. In order to lodge a proper complaint, mere mention of the sections and the language of those sections is not be all and end of the matter. What is required to be brought to the notice of the court is the particulars of the offence committed by each and

every accused and the role played by each and every accused in committing of what offence. When we see the complaint, the complaint is sadly vague. It does not show as to which accused has committed what offence and what is the exact role played by these appellants in the commission of offence.

All these details are lacking in the First Information Report. Particulars of offence committed by each of the accused and the role played by each of the accused in committing the offence is not mentioned. First Information Report also does not mention as to which accused committed what offence and what is the exact role played by the accused in commission of the offence. In the case at hand, it is vaguely mentioned that the applicant and his relatives had harassed the deceased and she was subjected to ill-treatment.

10. In the case of Geeta Mehrotra and others vs. State of Uttar Pradesh an others reported in **AIR 2013 SC 181**, it has been held thus :-

“19. Coming to the facts of this case, when the contents of the FIR is perused, it is apparent that there are no allegations against Kumari Geeta Mehrotra and Ramji Mehrotra except casual reference of their names who have been included in the FIR but mere casual reference of the names of the family members in a matrimonial dispute without allegation of active involvement in the matter would not justify taking cognizance against them overlooking the fact

borne out of experience that there is a tendency to involve the entire family members of the household in the domestic quarrel taking place in a matrimonial dispute specially if it happens soon after the wedding.

11. In the case at hand, no role is ascribed to the applicant. It is vaguely mentioned that deceased was subjected to beating. It is pertinent to note that after 4 to 5 days of Dipawali, applicant had come to take the deceased back. First Information Report shows that at that time, applicant was not given due honour and that had made the applicant upset. He had threatened the informant, brother of the deceased, that both the informant and his brother had no manners and they are shameless and when he had come to their house, they were not in the house. Thereafter this incident seems to have taken place. So the tenor of the First Information Report does not show that there is any proximity between ill-treatment and death.

12. In the case of Kashmiradevi (Supra), the mother-in-law allegedly killed her daughter-in-law due to non-fulfilment of dowry demand and there was evidence that soon before her death she was subjected to ill-treatment. She had given multiple dying declarations. This is not the factual position in the instant case. Moreover, this is not a case for bail.

13. The authorities cited are not on bail but they are after full-fledged trial. The applicant is in jail for more than ten months. Offence under Section 304B of the Indian Penal Code is punishable with imprisonment which shall not be less than seven years but which may extend to imprisonment for life. Offence under Section 306 of the Indian Penal Code is punishable with imprisonment which may extend to ten years. There is nothing on record to show that applicant has criminal antecedents. He will be available for trial. Having regard to this, I am inclined to release the applicant on bail. Hence the following order :-

#### **ORDER**

- i) Application is allowed.
- ii) Applicant be released on PR Bond of Rs. 50,000/- (Rs. Fifty Thousand only) with one solvent surety in the like amount in connection with Crime No. 0335/2020 registered with Pimpalner Police Station, Dist. Beed, for the offences punishable under Section 498(A), 304(B), 306, 323 read with Section 34 of the Indian Penal Code.
- iii) Application stands disposed of.

iv) It is clarified that the observations made in the above order are restricted to the decision of this application only and the trial Court shall not get influenced by the same and can come to its independent conclusion during trial.

( M. G. SEWLIKAR )  
Judge

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IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1965 OF 2021 IN  
BAIL APPLICATION NO. 1081 OF 2021

Dnyaneshwar Devakram Bhosle

Applicant

Versus

The State of Maharashtra & another

Respondents

Mr. S.A. Patil, Advocate holding for Mr. M.V. Salunke, Advocate for the applicant.

Mr. S.D. Ghayal, APP for the State.

Mr. S.J. Salunke, Advocate for respondent No. 2.

**CORAM : M.G. SEWLIKAR, J.**

**DATE : 8<sup>th</sup> October, 2021.**

**PER COURT :**

Application is allowed and accordingly stands disposed of.

**( M. G. SEWLIKAR )**  
**Judge**

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