

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO.1148 OF 2021

Walmik Bhausahab Tribhuvan

...APPLICANT

VERSUS

The State of Maharashtra

...RESPONDENT

...
Shri Narendra D. Sonavane Advocate for Applicant.
Shri V.M. Kagne, A.P.P. for Respondent-State.
...

CORAM: M.G. SEWLIKAR, J.

DATE : 17th NOVEMBER, 2021

ORDER :

1. This is an application under Section 439 of the Code of Criminal Procedure for releasing the applicant on bail in connection with Crime No. 0109 of 2021 registered with Shivoor Police Station, Taluka-Vaijapur, District-Aurangabad, for the offences punishable under Sections 498-A, 304-B read with Section 34 of the Indian Penal Code.

2. Applicant is the husband of deceased Arpita. Informant is the father of the deceased. Marriage of the deceased and applicant was performed on 1st April 2021.

3. It is alleged in the first information report that the deceased was subjected to ill-treatment by the applicant on account of non payment of remaining amount of dowry. She was harassed and ill-treated to such an extent that she was left with no alternative than to embrace death. On 11th May 2021, applicant informed the cousin of the informant that the deceased was not being seen in the house. She was searched everywhere. At 11.00 p.m. in the night dead body of the deceased was found floating in the well of the applicant. Thereafter, first information report was lodged and offence as aforesaid came to be registered against the applicant.

4. Admittedly, the span of the marriage was 40 days. Autopsy report shows that the medical officer could not determine the cause of death. Medical officer reserved the opinion till the receipt of Chemical Analyser's report. After receipt of chemical analyzer's report, opinion of medical officer was sought on the cause of death. Again the medical officer opined that cause of

death cannot be ascertained. For inviting provisions of Section 304-B of the Indian Penal Code, one of the essential requirements is that deceased must have been harassed and subjected to cruelty soon before her death and death must have been unnatural. In the case at hand there is no evidence to show that the death of the deceased was unnatural.

5. In this view of the matter and the evidence collected by the prosecution, I am inclined to release the applicant on bail. Hence the following order:-

ORDER

- i) Application is allowed.
- ii) Applicant be released on bail on his furnishing PR Bond of Rs.50,000/- (Fifty Thousand only) with one solvent surety in the like amount, in connection with Crime No. 0109 of 2021 registered with Shivoor Police Station, Taluka-Vaijapur, District-Aurangabad, for the offences punishable under Sections 498-A, 304-B read with Section 34 of the Indian Penal Code.
- iii) Bail Application is 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, J.]

asb/NOV21