

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

BAIL APPLICATION NO.1540 OF 2020

Nitin s/o Subhash Kamble
Age: 22 Yrs., occu. Agril.
R/o Kanadkheda (Bk.), Tq.
And Dist. Hingoli. = **APPLICANT**

VERSUS

The State of Maharashtra
Through Goregaon Police Station,
Tq.Sengaon Dist. Hingoli = **RESPONDENT**

Mr.DM Shinde, Advocate for Applicant/s;

Mr.NT Bhagat, APP for Respondent-State.

CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 19th January, 2021.

PER COURT :-

1. The applicant has been arrested in connection with CR No.190/2020 dated 10.11.2020 by Goregaon Police Station, District Hingoli, for the offences punishable under Sections 304(B), 498, 506 read with 34 of IPC. He has, therefore, filed this application under Section 439 of Cr.P.C. for releasing him on bail.

2. Heard learned Advocate and learned APP appearing for respective parties.

3. It has been vehemently submitted on behalf of the applicant that the applicant is

husband of deceased - Ankita. There was triffling quarrel between the deceased and the applicant. She has committed suicide on account of that triffling quarrel. However, now the informant, who is her mother, has tried to give colour of dowry death. No doubt, the deceased expired within few months of her marriage; but, she was never treated with cruelty by the applicant and his family members. Substantial part of the investigation is over and nothing is to be recovered from the present applicant. He is permanent resident of village Kanarkheda (BK). He will not abscond. The learned Advocate, therefore, prayed for releasing the applicant on bail.

4. Learned APP strongly opposed the bail application and submitted that the deceased and the present applicant had performed love marriage, which was then approved by both the families. However, the marriage was in fact performed on 24.5.2020. At the time of the marriage, the informant had given dowry, utensils and clothes. It is thereafter turned out that parents of the applicant were not ready to accept the deceased. Therefore, after two months of the marriage, the

deceased and the applicant shifted to their house which was in village otherwise they used to reside in their farm-house. Thereafter the applicant started demanding amount of Rs.2,00,000/- for purchase of she-buffaloes. On that count, she used to be harassed by the present applicant under the influence of liquor. The deceased used to inform about the cruel treatment given to her by the present applicant and his parents. The applicant had given threat to kill to the informant. At about 8.30 pm on 8.11.2020, dead body of the deceased was found in the well belonging to the applicant in his field. Therefore, within a period of five months, deceased Ankita has expired and, therefore, it is a suspicious and unnatural circumstance. The investigation is still pending. Taking into consideration the fact that the present applicant is the husband of the deceased and the dead body was found in the well belonging to his field, there appears to be prima facie case which dis-entitles him from releasing on bail under Section 439 of Cr.P.C.

5. The post-mortem report shows probable cause of death as "Asphyxia due to drowning". The

prosecution, at this stage, has not come with a case that it was a suicide or even the case of homicidal death. The prosecution will have to remove the possibility of accidental death at the time of trial. No doubt, within a period of five months of the marriage, unfortunately, Ankita has expired; but the evidence that would be led at the time of trial would decide whether she was treated with cruelty and whether it is required to prove whether it is a dowry death. Now, further physical custody of the applicant is not required for the purpose of investigation as substantial part of the investigation appears to have been over and, therefore, he deserves to be released on bail. Hence, following order, -

ORDER

- i. The application stands allowed;
- ii. The applicant, who has been arrested in connection with CR No.190/2020 dated 10.11.2020 by Goregaon Police Station, District Hingoli, for the offences punishable under Sections 304(B), 498, 506 read with 34 of IPC, he be released on PR of Rs.50,000/- with two solvent sureties of Rs.25,000/- each.
- iii. The applicant shall not tamper with the evidence of the prosecution in

any manner, nor he shall indulge in any criminal activity.

iv. The applicant shall attend the concerned police station on every Thursday between 10.00 AM to 2.00 PM till filing of charge sheet.

v. The applicant should comply with the requirements under paragraph No.12(1) to (6) of Chapter-I of Criminal Manual, whichever are necessary.

vi. Bail before the Trial Court.

(SMT. VIBHA KANKANWADI)
JUDGE

BDV