

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

909 BAIL APPLICATION NO.1260 OF 2021

Jotiba S/o Vishwanath Kate
Age: 35 years, Occu.: Labour work,
R/o. Pore Galli, Near Govt.Hospital,
Sonpeth, Tq.Sonpeth, Dist.Parbhani. ..Applicant

VERSUS

The State of Maharashtra ..Respondent

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Advocate for Applicant : Shri Rajkumar B. Dhaware
APP for Respondent : Shri S.W.Munde

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CORAM : M.G.SEWLIKAR, J.

DATE: 22nd December, 2021

PER COURT:-

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.0130 of 2021 registered with Sonpeth Police Station, District Parbhani, under Section 498A, 306, 304(B), 323, 504 read with Section 34 of the Indian Penal Code.

2. Facts giving rise to this application are that the deceased Jyoti @ Sujata was the sister of the informant and wife of the applicant. Their marriage was performed in the year 2020. Since then deceased Jyoti @ Sujata was subjected to ill treatment by applicant, his parents and brother-in-law Krishna @ Bablu and

sister-in-law by the name of Jyoti Manikrao Nanekar. She was subjected to ill treatment on the ground that an amount of Rs.6,75,000/- was deposited in the Fixed Deposit Receipt (FDR) in the name of the deceased. Applicant and his relatives wanted the deceased to encash these Fixed Deposit Receipts and give money to the accused as they wanted to purchase a four wheeler. They used to say that they married her as deceased possessed huge cash. In the month of December, 2020 deceased was subjected to ill treatment by the relatives of the husband and she was dropped at her maternal place at Parbhani. At that time, she had stayed with the informant for a period of around one and half months. Thereafter, she was taken back by the applicant on the pretext of the engagement ceremony of brother-in-law of the deceased by the name of Krishna. About 15 days before the incident, informant had brought the deceased to her maternal place. At that time, she had narrated about the ill treatment that was meted out to her. She was again sent back for cohabitation on 31st May, 2021 alongwith her husband. On 5th June, 2021 at 05:00 p.m., deceased had made a phone call to her sister Meena Ramkishan Wakade indicating that she did not want to live with the applicant. On 6th June, 2021, informant got a message that the deceased committed suicide by hanging. Therefore, FIR came to be lodged on 7th June, 2021, on the basis

of which crime under the aforesaid Sections came to be registered.

3. I have heard Shri R.B.Dhaware, learned counsel for the applicant and Shri S.W.Munde, learned APP for the respondent-State.

4. Shri Dhaware, learned counsel for the applicant submits that vague allegations are made against the applicant about ill treatment and demand of dowry. He submits that applicant is behind bars for more than six months. Offence is not punishable with death or imprisonment for life. He submits that even at the time of incident, he was in the hospital. Therefore, applicant did not cause any injury to the deceased nor he made any unlawful demand. He, therefore, prayed for releasing the applicant on bail.

5. Shri Munde, learned APP for the respondent-State submits that post mortem report shows that deceased had abrasion over her left shoulder and upper arm. He submits that there are four FDRs in the name of the deceased. Therefore, the allegations made against the applicant by the informant in the FIR got strengthened. He, therefore, prayed for rejection of the

application.

6. On perusal of the FIR, it reveals that the allegations are that marriage with the deceased was performed by the applicant as deceased possessed lot of wealth. However, the FDRs recovered from the applicant show that these FDRs were purchased after marriage. Therefore, *prima-facie*, there appears no substance in the allegation that marriage was performed because deceased possessed large wealth.

7. Applicant had filed report with the Police Station intimating the Police that at the time of incident, he was not present in the house. The said report shows that on 6th June, 2021 at 02:00 a.m. applicant had chest pain and therefore his brother admitted him in the Chavan Hospital at Sonpeth. He came back home at 22:30 hours on 7th June, 2021. His mother had gone to call the deceased for dinner but the deceased did not open door for a long time on account of which door was broken and at that time it was noticed that deceased had hanged herself. This shows that applicant was absent when the deceased committed suicide. Investigating Officer did not make any investigation in this respect. Applicant has produced medical papers to show that he was admitted in the hospital on 6th June, 2021. Therefore, there

appears substance in the contention of the applicant that he was not present in the house when the deceased ended her life. Offence is not punishable with death or imprisonment for life. Applicant is behind bars for more than six months. In this view of the matter, I am inclined to release the applicant on bail. Hence, the order:

ORDER

- i) Bail Application is allowed.
- ii) Applicant be released on P.R.Bond of Rs.20,000/- (Rs. Twenty Thousand only) with one solvent surety in the like amount, in connection with Crime No.0130 of 2021 registered with Sonpeth Police Station, District Parbhani, under Section 498A, 306, 304(B), 323, 504 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)
JUDGE**