

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO.1257 OF 2021
IN
CRIMINAL APPEAL NO.368 OF 2021**

1) Ankush Dagadu Salunkhe

2) Shalan Dagadu Salunkhe

...Applicants

Versus

The State of Maharashtra

...Respondent

....

Mr. Purushottam Chavan i/b. Mr. Rajesh S. Jadhav for the Applicants.

Mr. S.V. Gavand, APP for the Respondent-State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 14th JULY, 2021.

P.C.:-

This is an application under Section 389 of the Code of Criminal Procedure, 1973 for suspension of substantive order of sentence imposed by judgment dated 12/03/2021 passed by learned Sessions Judge, Sangli in Sessions Case No.112 of 2015 and to enlarge the Applicants on bail.

2. The Applicant No.1 is the husband and the Applicant No.2 is the mother-in-law of the deceased- Jyoti Salunkhe, who committed suicide on 25/02/2015. Pursuant to the FIR lodged by the father of said Jyoti, crime No.26 of 2015 was registered against the accused for

offences punishable under Sections 498A and 306 r/w. 34 of the IPC. Learned Judge after considering the evidence has held the Applicants guilty of offence punishable under Section 498-A r/w 34 of the IPC and sentenced to suffer rigorous imprisonment for three years and to pay fine of Rs.25,000/- i/d to suffer further rigorous imprisonment for one year. They are also convicted for offence punishable under Section 306 of the IPC and sentenced to suffer rigorous imprisonment for ten years and to pay fine of Rs.50,000/- i/d they shall suffer further rigorous imprisonment for three years. Aggrieved by the conviction and sentence, the Applicants have filed an appeal, pending which they have prayed for suspension of sentence and enlargement on bail.

3. Heard the learned counsel for the Applicants and learned APP for the Respondent-State. Perused the records and considered the submissions advanced by the learned counsel for the respective parties.

4. Evidence of PW1-father of the deceased indicates that the Applicant No.1 and his daughter Jyoti were married on 02/09/2011. They have a child through the said wedlock, born in the year 2012. The evidence of PW1 indicates that the accused treated Jyoti well for about one year. Thereafter they started harassing her with demands of dowry. Evidence of the father of the deceased prima facie indicates that Jyoti had returned to her matrimonial home, about three months

after the child birth. This evidence indicates that she returned home after about 15 days and told him that her husband i.e. the Applicant No.1 was demanding two tolas of gold and money for purchasing a tempo. Evidence of the witnesses further indicates that the accused ill-treated Jyoti for not meeting his demands. This witness had intervened and tried to resolve the dispute. He had told the Applicants that he was not able to meet their demands and requested them not to ill-treat his daughter. The complainant states that the Applicants continued to harass and subject Jyoti to cruelty. Records also prima facie indicate that said Jyoti had lodged a complaint on 02/12/2014 against both the Applicants specifically stating that the Applicants were demanding money and gold and that they were subjecting her to cruelty. She had also alleged that she had run away from the house while the Applicant No.1 had gone to the other room to get the Kerocine Can to set her ablaze. Pursuant to the said complaint, crime was registered against both these Applicants for an offence punishable under Section 498A of the IPC. Jyoti committed suicide within two months from the date of lodging of the said FIR. The post mortem report reveals that she was 20-24 weeks pregnant on the date of committing suicide.

4. The records reveal that the death of Jyoti was within 7 years from the date of marriage. The material on record prima facie indicates

that soon before her death, Jyoti was subjected to cruelty and harassment. Prima facie there is live link between the effect of cruelty due to dowry demand and the death of Jyoti, which gives rise to presumption under Section 113A of the Indian Evidence Act.

5. Considering the above mentioned facts, I am not inclined to suspend sentence imposed against the Applicant No.1. However, considering the fact that the Applicant No.2 is a woman of advanced age, substantive sentence against her is suspended pending disposal of the appeal on merits on following terms and conditions:-

- (i) The Applicant No.2 is ordered to be released on bail on furnishing bail bonds of Rs.30,000/- with one or two sureties in the like amount to the satisfaction of the Trial Court.
- (ii) The Applicant shall report to the Trial Court, once in six months on the day/date specified by the Trial Court, till the appeal is finally disposed of.
- (iii) The Applicant shall keep the Trial Court informed of her current address and mobile contact numbers and/or change of residence or mobile details, if any, from time to time.

(iv) If there are two consecutive defaults in appearing before the Trial Court, the learned Judge shall make a report to the High Court and the prosecution would be at liberty to file an application seeking cancellation of bail.

6. The application stands disposed of in above terms.

(SMT. ANUJA PRABHUDESSAI, J.)