

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1142 OF 2021

SATISH ARVIND KADAM

)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA

)...RESPONDENT

Mr.Rahul Dhaygude, Advocate for the Applicant.

Smt.PP.Shinde, APP for the Respondent – State.

Mr.Rahul Karnik, Advocate for the Intervenor.

CORAM : V. G. BISHT, J.

RESERVED ON : 25th OCTOBER 2021
PRONOUNCED ON : 15th NOVEMBER 2021

P.C. :

1 The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in Crime No.104 of 2020 registered with Police Station Phaltan Gramin, Phaltan, Satara for offences punishable under Section 302, 304(B), 498(A), 323, 504, 506 read with 34 of the Indian Penal Code (IPC).

2 Informant's daughter Puja (since deceased) was married to applicant on 1st February 2020. Four days prior to lodging of the First Information Report (FIR) the wife of informant received a phone call from the deceased that applicant and her in-laws are harassing her physically and mentally on the ground that dowry was not given in the marriage and that they were not treated with respect in the marriage ceremony. She further requested her mother to take her back. However, they advised the deceased that they would take her back after Holi festival. On 13th March 2020 informant came to know that the deceased consumed some pesticide and has been admitted to hospital. The informant, his wife and elder brother accordingly rushed to the hospital. There they came to know about the death of the deceased. The informant, accordingly, lodged report that as the deceased could not bear the physical and mental harassment, she committed suicide by consuming pesticide.

3 Mr.Rahul Dhaygude, learned counsel for the applicant, submits that initially the accused-applicant was

charged with Section 306 of the IPC. However, subsequently, Section 302 of the IPC came to be added on the basis of statement of one Bhagyashree Ghatge as allegedly she had a video call with deceased and from the said video call she was told by the deceased that she had been administered some substance forcibly by her in-laws. However, according to the learned counsel, no such CDR report is gathered by the Investigating Officer and in such circumstance, it was wrong to slap Section 302 IPC. The learned counsel then submits that there are no specific allegations of demand of dowry or for that matter cruelty. The learned counsel then invited my attention to certain portion of the statement of prosecution witnesses and would submit how the prosecution has tried to implicate the applicant falsely. The investigation is over and the applicant is ready to abide any terms and conditions that may be imposed by this Court. Hence, the applicant be enlarged on bail, urged learned counsel.

4 Smt.PP.Shinde, learned APP, on the other hand, invited my attention to the statement of Bhagyashree Ghatge and as also statement of Dr.Rajendra Jagdale. The learned APP would submit that since there was illegal demand of dowry and that too within 1½ months of the marriage, the deceased was forcibly administered poisonous substance leading to her death. The offence being of serious nature, no leniency should be shown, argued learned APP.

5 If the FIR is read carefully, then it would be seen that there is vague and general allegation of demand of dowry as also ill-treatment on the ground of not giving proper respect to the in-laws of the deceased at the time of marriage ceremony. There is no specific detail of demand of dowry allegedly at the hands of either applicant or from his parents.

6 Now coming to forcible administration of pesticide, prima facie the evidence is not quite satisfactory. If the statement of Dr.Rajendra Jagdale is to be read carefully, which is relied on

by the learned counsel for the applicant and as also by the learned APP, then it would be seen that on 13th March 2020 the deceased was brought to dispensary by the father of the applicant with a complaint of nausea and abdominal ache. Interestingly, the whole statement nowhere shows that the deceased, in any manner, complained to the said doctor about the forcible administration of pesticide or any other poisonous substance at the hands of her in-laws including the applicant, at the time of treatment. She had every opportunity to apprise this witness but no such thing surprisingly is forthcoming.

7 Then there is statement of Gauri Vaibhav Phadtare who is elder sister of the deceased. According to her on 13th March 2020 she came to know from her another sister namely Ambali Deshmukh that the deceased is suffering as she had brushed with pesticide. Lastly, the statement is of Bhagyashree Ghatge which has been allegedly pressed in service by the prosecution. She is cousin of deceased. According to her statement, on 14th March 2020, she made a video call to the

deceased wherein she was told by the deceased that she (deceased) was beaten by her in-laws and they had forcibly administered some substance in her mouth. I have already pointed out that no such CDR is forthcoming from the side of investigation. Moreover, there are inconsistent statements, in as much as, the deceased's own sister, namely, Gauri Phadtare nowhere says so. Rather, it is her statement that as the deceased had used pesticide as a toothpaste she had developed some complications. Moreover, there is statement of Dr. Rajendra Jagdale, who had first opportunity to treat the deceased. But then he also does not say anywhere that the deceased had revealed about the forcible administration of some poisonous substance or that the preliminary investigation revealed the case of administration or consumption of poisonous substance by the deceased.

8 Having regard to the over all circumstances and the material on record, in my considered opinion, the applicant has made out a case for bail. No criminal antecedents are brought on

record. Investigation is over. In these obtaining circumstances, the custody of the applicant is totally unwarranted. Hence the following order :

ORDER

- (i) Applicant – Satish Arvind Kadam shall be released on bail in Crime No.104 of 2020 registered with Police Station Phaltan Gramin, Phaltan, Satara, on his executing P.R.Bond in the sum of Rs.25,000/- with one or two sureties in like amount.
- (ii) The applicant shall not tamper with prosecution evidence.
- (iii) The applicant shall attend the concerned police station as and when called by the Investigating Officer.
- (iv) Parties to act on copy of this order duly authenticated by the Sheristedar of this Court.
- (v) The observations made hereinabove are prima facie in its nature for the purpose of deciding the bail application only.

The trial Court shall not be influenced by the observations while deciding the case on merits.

(vi) The application is allowed in the aforesaid terms and stands disposed off accordingly.

(V. G. BISHT, J.)