

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3235 OF 2021

SALMAN GUDUBHAI PATEL

)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA

)...RESPONDENT

Mr.Sagar Tambe i/b. Mr.Ritesh Thobde, Advocate for the Applicant.

Mr.A.A.Palkar, APP for the Respondent – State.

CORAM : V. G. BISHT, J.

**RESERVED ON : 8th DECEMBER 2021
PRONOUNCED ON : 22nd DECEMBER 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.100 of 2019 registered with Police Station MIDC, Solapur, for offences punishable under Section 498-A, 307, 302, 504, 506 read with 34 of the Indian Penal Code (IPC).

2 Informant is father of deceased Saba who was married to applicant on 9th January 2018. According to prosecution, applicant was jobless. After 6/7 months of marriage, applicant started harassing the deceased and used to ask her to bring ration, gas cylinder etc. from the parents. A week before the incident, the applicant had asked the deceased to bring Rs.10,000/- from her parents towards house rent amount.

3 The prosecution alleges that on 4th February 2019, the applicant visited the house of the informant and assaulted the deceased by means of fist blows and also by elbow on her chest and abdomen. The informant accordingly lodged the First Information Report (FIR). It appears that during the course of investigation, the deceased succumbed to injuries.

4 Mr.Sagar Tambe, learned counsel for the applicant, submits that no offence under Section 302 of the IPC is made out, in as much as, it cannot be said that there was mensrea on the part of the applicant. The learned counsel also invited my

attention to findings of the postmortem report and as also the cause of death. Investigation is over and charge-sheet has been filed. In such circumstances, applicant deserves to be enlarged on bail.

5 Mr.Palkar, learned APP, on the other hand, opposed the submissions by contending that since beginning the deceased was subjected to physical harassment by the applicant. The learned APP then invited my attention to the statement of eye witnesses, namely, Maula Nuruddin Shaikh and Khairunissa Maula Shaikh. There being no merit in the application, the same is liable to be rejected, argued learned APP.

6 Perused the investigation papers. From the FIR it is very much clear that after 6 to 7 months of marriage, the applicant started harassing the deceased physically and mentally. Even there was monetary demand of Rs.10,000/- from the applicant. As the demands were not fulfilled, the applicant used to assault the deceased.

7 It is further seen that on 4th February 2019, the applicant visited the parental home of the deceased where he assaulted the deceased by means of fist blows and also by elbow on her chest and abdomen.

8 There are statements of witnesses as pointed out by the learned APP. First statement is of father of applicant, namely, Maula Nuruddin Shaikh. According to him, the applicant is addicted to liquor and always used to abuse and beat the deceased. Even he used to ask the deceased to bring house rent amount from her parents. This witness, who is none other than the father of the applicant, then corroborates the contents of the FIR relating to the incident dated 4th February 2019.

9 Next statement is of Khairunissa Maula Shaikh, who is aunt of deceased. This witness also corroborates the incident dated 4th February 2019.

10 I have also gone through the postmortem report. Column no.17 shows various injuries sustained by the deceased. The cause of death is “blunt trauma to chest and abdomen” (unnatural). This finding of postmortem report also furthers the case of prosecution.

11 Having regard to the material on record, in my view, the applicant does not deserve to be enlarged on bail. Hence, the following order :

ORDER

Application is rejected.

(V. G. BISHT, J.)