

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

**INTERIM APPLICATION NO. 1555 OF 2021
IN
APPEAL NO. 505 OF 2021**

Swapnil Suresh Bagad

..Applicant

v/s.

The State of Maharashtra

..Respondent/s

an

Mr. Aniket U. Nikam for the Applicant.

Mr. P.H.Gaikwad, APP for the Respondent-State.

CORAM : ANUJA PRABHUDESSAI, J.

DATED : JULY 28, 2021.

P.C.

1. This is application under Section 389 Cr.P.C. filed by the Applicant seeking suspension of sentence and enlargement on bail. By the impugned judgment, the learned Sessions Judge has held the Applicant guilty of offences under Section 306 and 498A of IPC. The applicant has been sentenced to undergo rigorous imprisonment for a terms of 10 years and fine of Rs.10,000/- i.d. to undergo s.i. for six months for offence under Section 306 of IPC, and imprisonment for a period of 3 years and fine of Rs.5000/- I.d. to undergo s.i. for 1 month, for the offence

punishable under Section 498A of IPC.

2. The case of the prosecution in brief is that the Applicant herein was married to deceased Revti on 15.04.2012. She had committed suicide on 16.05.2014. The father of the deceased had lodged the FIR on 20.05.2014 alleging that the Applicant and his family members had subjected his daughter Revti to cruelty due to demand of dowry and that she had committed suicide because of the cruelty meted out to her.

3. The learned trial Court has convicted and sentenced the Applicant as stated above and has acquitted the other accused for the offences p.u.s. 306 and 498A IPC.

4. The evidence of PW1 Nigappa Satappa Tegginkeri, father of the deceased indicates that the deceased was married to the Applicant. After marriage, his daughter was residing at the matrimonial house along with the Applicant and the other co-accused. He has stated that the Applicant was a chronic alcohol addict. Apart from the omnibus allegation, that the Applicant and

the other co-accused had asked him to extend financial help to the sister of the Applicant to construct the house, there are no allegations that the Applicant herein had subjected the deceased to cruelty, or that he had abetted the suicide.

5. It is sought to be contended that a day prior to the death of deceased, PW2 Gangadhar, brother of the deceased had transferred Rs.11,000/- to the account of the Applicant herein. In this context PW2 has stated that he had received a call from his sister to transfer the money in the account of her husband. His statement does not prima facie indicate that the said money was demanded by the Applicant or his family members. She had not disclosed any reasons for making such request. Under the circumstances, mere transfer of money in the account of the Applicant cannot be termed as a demand for dowry, as normally understood.

6. It is also pertinent to note that the Applicant was on bail during pendency of the case. He has not misused the liberty. Considering the above facts and circumstances, in my considered

view, this is a fit case for suspending the sentence and enlarging the Applicant on bail pending disposal of the appeal. Hence, the Application is allowed and the Applicant is ordered to be enlarged on bail on the following terms and conditions.

- (i) The application is allowed.
- (ii) The execution of sentence imposed in Sessions Case N. 224 of 2016 vide judgment dated 29.04.2021 is suspended till disposal of the appeal on merits, on the applicant furnishing fresh bail bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount;
- (iii) The Applicant shall report to the trial Court, once in six months on the day specified by the trial Court, till the appeal is finally disposed of;
- (iv) The applicant shall keep the trial Court informed of his current address and mobile contact numbers and/or change of residence or mobile details, if any, from time to time;
- (v) 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.

. Application is accordingly disposed of.

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SALGAONKAR
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(ANUJA PRABHUDESSAI, J.)