

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

**BAIL APPLICATION NO.2341 OF 2021
WITH
INTERIM APPLICATION NO.1873 OF 2021**

Shadab Ayub Khan ... Applicant
Vs
The State of Maharashtra ... Respondents
...

Mr. Aabaad Ponda, Sr. Adv. i/by Karma Vivan for the Applicant.

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

Mr. Aditya Mithe for the Intervenor.

CORAM : SANDEEP K. SHINDE J.
DATE : 10th AUGUST, 2021.

P.C. :

Applicant seeks his enlargement on bail in connection with the Crime No.684 of 2021 registered at Sakinaka Police Station for the offence punishable under Section 306 of the Indian Penal Code, 1860 ('IPC' for short).

2 Heard Mr. Ponda, the learned Senior Counsel for the applicant, Mr. Palkar, the learned Additional Public Prosecutor for the State and Mr. Mithe, the learned counsel for the Intervenor.

3 Applicant is air-line pilot having eleven years experience in aviation. He has no criminal antecedents.

4 Smt. Reshma Trenchil and the applicant were residing in one building at Chandivali, Mumbai. On 21st June, 2021, Smt. Reshma, 44 year old lady jumped from her 12th floor apartment with her son of 10 year old. Watchman of the apartment found the deceased and her son lying in pool of blood. Following which, he alerted residents and the police.

5 Following the incident, accident death enquiry was held in ADR 70 of 2021. Whereafter police constable

Kamble found suicide note left behind by the deceased Reshma. In the suicide note, victim complained of harassing her about her son making noise. Whereafter the applicant was arrested in the crime in question.

6 Mr. Ponda, the learned Senior Counsel for the applicant, invited my attention to the complaints filed by the applicant to the Manager of the Apartment and such other complaints filed by his family, to the Senior Inspector of Police to contend that the deceased was causing continuous nuisance to residents since morning from 7-8 a.m. till 9-10 p.m. The complaints indicate that noise was mainly of jumps or run, sliding tables and chairs. It appears, after the complaints were filed, Senior Inspector of the Police warned Reshma that she shall not cause anymore nuisance to the residents of the apartment. The last complaint was filed on 27th May, 2021. It appears, Reshma's husband and her in-laws passed away in April/May, 2021 in a pandemic of Covid-19. Submission is that the deceased

was depressed since her husband and in-laws expired in April/May, 2021. Mr. Ponda, learned Senior Counsel for the applicant would submit that the investigation in the case is over and since trial is not likely to commence in near future, applicant may be granted bail by imposing such conditions to secure his presence for the trial. He submitted that complaints filed by the applicant cannot be termed as, 'instigation', in-as-much as there is no material on record to suggest that owing to the constant humiliation or ill-treatment meted out to the deceased by the applicant, deceased committed suicide. He would further submit that offending action ought to be proximate to the time of occurrence, however, complaint to police has had to proximity to the incident. It is submitted that there is no evidence capable of suggesting that the applicant by filing complaints intended to instigate the deceased to commit suicide. Mr. Ponda in support of his submission has relied on the judgment of the Apex Court in the case of **Arnab Goswami** in **Criminal Appeal No.742 of 2020**.

7 Be that as it may, herein, there is no material to suggest that conduct of the applicant created such circumstances which left deceased with no option but to commit suicide. Prima-facie, accusations, do not constitute offence under Section 306 of the IPC. Even otherwise, investigation is over and applicant's presence for the trial can be secured by imposing conditions.

8 In consideration of the facts of the case and for the reasons stated above, the application is allowed. Hence, the following order:

ORDER

(i) The applicant in Crime No. 684 of 2021 registered with Sakinaka Police Station, shall be released on executing PR bond for the sum of Rs.30,000/- with one or more sureties in like sum.

(ii) The applicant shall attend the concerned police station as and when called.

(iii) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case

9 The application and the Interim Application therein are accordingly disposed of.

10 It is made clear that observations made here-in-above be construed as expression of opinion for the purpose of bail only and the same shall not in any way influence the trial in other proceedings.

(SANDEEP K. SHINDE, J.)