

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

CRIMINAL BAIL APPLICATION NO. 1296 OF 2020

Nawaz Yusuf Chouhan Alias Shahnawaz ... Applicant

Versus

The State of Maharashtra ... Respondent

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Mr. Saroj N. Pagare, Advocate for the Applicant.

Mr. Y. M. Nakhwa, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 25th FEBRUARY, 2021

PER COURT:

1. The applicant is arrested on 19th September, 2019 in connection with C.R. No. I-746 of 2019 registered with Mumbra Police Station for offence under Section 306 of Indian Penal Code.

2. The prosecution case is that the engagement ceremony of complainants daughter was performed with the applicant on 5th March, 2019. However, the applicant accused was suspecting the character of the victim. He demanded money and was refusing to perform marriage. It is also alleged that there was physical relationship between applicant and the deceased. The victim committed suicide on 10th September, 2019. The FIR was registered on 13th September, 2019. Statement of witnesses were recorded and

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on completing investigation charge-sheet was filed.

3. Learned advocate for the applicant submitted that there is no evidence to establish the charge under Section 306 of IPC. The allegations made in the complaint and statements of witnesses are after thought. There was no previous complaint of harassment or demand of money. There were whats-app chats between deceased and her close friend. Those chats are part of the charge-sheet. There is nothing to indicate that any point of time the applicant had demanded money or assaulted the victim. The chats were during the period from May 2019 to July 2019. It is submitted that the prosecution is relying on the statements of witnesses alleging that the applicant had demanded money from the victim. The applicant had stated that he would join employment and earn money for himself and then perform marriage with the victim.

4. The applicant is in custody for a period of about one and half year. There are no criminal antecedents against the applicant.

5. Learned APP submitted that there is substantial evidence to show that the applicant had caused harassment to the victim. Although the engagement ceremony was performed. There was physical relationship between the victim and the applicant. He refused to perform marriage. She was subjected to assault. The

applicant used to suspect character of the victim. Learned APP pointed out statement of witnesses, which according to him supports the case of prosecution that on account of harassment caused to the victim, she committed suicide.

6. On perusal of the FIR it is apparent that the engagement ceremony was performed between the applicant and victim. From the statement it appears that witnesses were pursuing the victim not to perform marriage with the applicant but she was interested in getting married to him. Although it is alleged that she was assaulted and it was learnt that there was physical relationship between them, there were no previous complaint. There is exchange of messages between the victim and her close friend. However, chats exchanged between them does not indicate that the applicant had at any point of time assaulted or demanded money from victim. Victim used to confide information to her friend. The investigation is completed and the charge-sheet is filed. Considering the factual matrix of this case and the fact that the applicant is in custody for substantial period of time, further detention of the applicant is not necessary. Hence, case for grant of bail is made out.

ORDER

- (i) Criminal Bail Application No. 1296 of 2020 is allowed;

- (ii) The applicant is directed to be released on bail in connection with C.R. No. I-746 of 2019 registered with Mumbra Police Station, on executing P.R. Bond in the sum of Rs.25,000/- with one or more local sureties in the like amount;
- (iii) The applicant shall report concerned Police Station once in three month on first Saturday of the month between 11:00 a.m. to 1:00 p.m. till further order;
- (iv) Application stands disposed of accordingly.

7. This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

(PRAKASH D. NAIK, J.)