

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3346 OF 2021

SALEEM TABARAK ANSARI)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Amol Jagtap, Advocate for the Applicant.

Mr.H.J.Dedhia, APP for the Respondent – State.

CORAM : V. G. BISHT, J.

**RESERVED ON : 15th NOVEMBER 2021
PRONOUNCED ON : 17th 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.156 of 2019 registered with Police Station Sinhagad Road, Pune, for offences punishable under Section 498A, 304B, 201 of the Indian Penal Code (IPC).

2 It is the case of prosecution that applicant was married to informant's daughter namely Naseema Ansari (since deceased) as per Muslim rites on 28th September 2015. The prosecution alleges that the applicant used to subject deceased to cruelty on the ground that a motorcycle was not given in the marriage ceremony. Being fed up with the harassment, the deceased committed suicide by hanging on 12th April 2016.

3 Mr.Amol Jagtap, learned counsel for the applicant, at the outset submits that necessary ingredients of the provisions of Dowry Prohibition Act and as also Section 304B of the IPC are not attracted in the facts and circumstances of the case. There is delay of four months in lodging the First Information Report (FIR). Investigation is over and charge-sheet is filed. There are no criminal antecedents. In such circumstances, the applicant deserves to be enlarged on bail, argued learned counsel.

4 Mr.Dedhia, learned APP, on the other hand, opposed the submissions by contending that there are specific allegations

of cruelty within meaning of Section 498A of the IPC. Moreover, there was dowry demand at the hands of applicant and this was the reason for subjecting the deceased to cruelty. The learned APP also invited my attention to the statements of prosecution witnesses namely, Amar Prakash Khedekar, Ram Roshan Ram and Santosh Kumar Ram. According to the learned APP, there being no merit in the application, the same is liable to be rejected.

5 Perused the investigation papers. As far as the provisions of Dowry Prohibition Act are concerned, prima facie, I am in agreement with the learned counsel for the applicant that necessary ingredients are missing. This being so, by same analogy doubt persists about application of Section 304B relating to dowry death.

6 Now only remains Section 498A IPC. Admittedly, investigation is over. There are no criminal antecedents. As far as the statements of so called eye witnesses are concerned, I have carefully gone through those statements. The statement of Amar

Prakash Khedekar shows that there used to be quarrels between the applicant and deceased intermittently and he had seen the applicant beating the deceased by hands. Except this, there is nothing. Then next statements are that of Ram Roshan Ram and Santosh Kumar Ram which are in the nature of hearsay and thus these statements do not further the case of the prosecution.

7 In view of above, I do not see the necessity of keeping the applicant behind the bars. Hence, the following order :

ORDER

- (i) Applicant – Saleem Tabarak Ansari shall be released on bail in Crime No.156 of 2019 registered with Police Station Sinhagad Road, Pune,, on his executing PR.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 Court proceedings regularly.

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

(V. G. BISHT, J.)