

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (BA) NO. 253/2021

Jaykumar S/o Vitthal Jare

-VERSUS-

State of Maharashtra.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri S. V. Deshmukh, Advocate for applicant.
Ms. N. P. Mehta, APP for State/non-applicant.

CORAM : VINAY JOSHI, J.

DATE : 03.05. 2021.

Hearing was conducted through Video
Conferencing.

2. The applicant was arrested in Crime No. 188/2019 registered with Police Station Lonar, Dist. Buldhana for the offence punishable under Sections 302, 498-A read with Section 34 of the Indian Penal Code. Earlier, applicant has applied for bail, however, this Court has granted him liberty to apply fresh after specified period and accordingly, he has again filed bail application. Already investigation is complete and charge-sheet has been filed.

3. It is applicant's case that allegations levelled against him would at the most attract

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offence 498-A of the Indian Penal Code. According to the applicant, charge-sheet is self contradictory which nowhere discloses the commission of offence punishable under Section 302 of the Indian Penal Code. It is submitted that deceased lady consumed poisonous substance and committed suicide which was coloured by her relatives as a murder. The State strongly resisted bail by filing reply. Learned A.P.P. while resisting bail, attracted my attention towards several contused injuries found on the person of deceased. It is submitted that no poison was found in chemical analysis report, hence the deceased died due to several injuries. However, the said statement is against the P.M. notes wherein Medical Officer has concluded the cause of death as death due to poison.

4. At the instance of FIR lodged by the brother of the deceased on 07.07.2019, crime was registered. It is his case that the applicant got married with deceased lady long back in the year 1995. It is alleged that that only from the period of two years preceding to the occurrence, the applicant started harassing deceased. He used to beat her after consumption of alcohol. Informant contended that on 04.07.2019, he received phone call from his daughter asking him to immediately

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rush to the house of deceased as applicant threatened deceased to kill. On the following day, he went to the house of victim, took her to hospital where there was oral dying declaration discloses that applicant beat her and forcibly administered the poison.

5. Learned counsel for the applicant strenuously argued that the entire statement of informant is after thought since earlier he himself has stated that the deceased committed suicide. In order to impress said submission, he took me through MLC death report (page No. 75) which discloses that the informant himself stated that victim has consumed poisonous substance. Likewise, he took me through inquest panchanama wherein it was expressed that due to consumption of poison, victim committed suicide and the wife of victim is signatory to Panachanama. The entire endeavour was to impress that before registration of FIR, the story narrated by informant and his wife was about suicidal death, however, latter on a false story about administration of poison has been concocted. Prima facie, there appears to be substance in the contention of application since before FIR, there were no allegation despite as per informant's own case, oral dying declaration was made to him much earlier.

7. The Police recorded statement of two daughters of victim who were staying at Aurangabad for educational purpose. They stated that their father (applicant) informed on telephone that he would kill his wife i.e. their mother. Learned counsel for the applicant would submit that though the informant was residing in the same village, despite receiving said message, he never asked other family members to see the victim. Though there are several contused wounds that may lead to show that there was dispute between husband and wife.

8. Prima facie, it appears that the injuries was the result of matrimonial quarrel. However, the prosecution has to establish by leading evidence that the accused forcibly administered poison to the victim so sustain charge of murder. Though a witness namely Adinath has been cited as eye-witness, however he stated only about quarrel and nothing else. Already investigation is complete and charge-sheet has been filed.

9. Having regard to the nature of accusation and the material collected against applicant, it is not appropriate to detain him for indefinite period. It is informed that yet charges

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have not been framed and therefore, the trial will take considerable time for disposal, particularly in current pandemic situation. The applicant has made out a case for grant of bail, hence following order:-

(I) Application is allowed.

(II) The applicant Jaykumar S/o Vitthal Jare be released on bail on his furnishing P.R. Bond of Rs. 25,000/- with one or two sureties in the like amount.

(III) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence.

JUDGE

Gohane.