

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

CRIMINAL APPLICATION [BA] NO. 224/2021.

Vijay Kalnu Tayde

-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. Sirpurkar, Advocate for the Applicant.
Ms. N.P. Mehta, A.P.P. for the Non-applicant.

CORAM : VINAY JOSHI, J.

DATE : MAY 07, 2021.

Heard learned Counsel for the parties
through video conference.

2. Police Station Pinjar, District Akola
arrested the applicant/accused in Crime
No.200/2020 for offence punishable under Sections
498-A, 302 read with Section 34 of the Indian Penal
Code. The applicant is father-in-law of the
deceased lady. Investigation in the matter is
complete and charge sheet has been filed.

3. The State has resisted the bail by filing

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its reply affidavit dated 22.03.2021. On the ground of seriousness of the crime, severity of the punishment and chances of tampering, the bail is prayed to be rejected.

4. Brother of the victim lady has lodged a report on 29.10.2020, on the basis of which investigation commenced. It was alleged that the victim got married with the son of the applicant namely Pravin 2 ½ years prior to the date of occurrence. On account of illicit relations of Pravin, there use to frequent quarrel and harassment to the victim. On 19.10.2020, victim has telephonically asked her brother [informant] to take her back since her husband and in-laws are likely to kill her. On the following day, the informant received a message that the victim was hospitalized due to poisoning, hence, he rushed to the place. While in hospital, on 23.10.2020 the victim gained consciousness, on which she disclosed that her husband, father-in-law and mother-in-law had forcible administered poison to her on 20.10.2020.

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Finally on 28.10.2020 the victim lady expired, hence, the report on the following day.

5. Similar is the statement of the victim's sister namely Sangita, brother - Roshan and husband of Sangita namely Himmat. All of them stated about the disclosure by the victim lady in the hospital on 23.10.2020.

6. The learned Counsel for the applicant has vehemently argued that the victim was throughout unconscious during her hospitalization from 20.10.2020 till her death i.e. upto 28.10.2020. According to him, the family members of the victim are falsely stating about the disclosure of forcible administering poison. The entire prosecution case is based on three oral dying declarations. Admittedly the police have not recorded the dying declaration, which prima facie supports the stand of the applicant.

7. Pertinent to note that the medical papers bears the history disclosed by brother of victim on 26.10.2020 is mere of poisoning. The submission

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that though the informant and his relatives learnt about administration of poison on 23.10.2020, they had not disclosed the same, bears substance.

8. Learned A.P.P. has relied on prior complaint of the victim dated 07.03.2020 against her husband and in-laws. The said prior complaint would at the most disclose matrimonial harassment. Though the container/bottle of poison was found in the house of the accused, that may support the defence of suicide by poisoning. The police have only once on 20.10.2020 took opinion of the Medical Officer that the victim was not fit for giving dying declaration. During next 8 days, no such effort was made, which supports the submission advanced by the defence. Besides three oral dying declarations allegedly made to nearer relatives, there is no other material. Prima facie no explanation is advanced about non recording of the written dying declaration, despite the victim was allegedly conscious on 23.10.2020, and then survived for next 6 days. Having regard to all

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these circumstances, and considering the allegations particularly against the applicant – father-in-law, he can be released on bail. In view of that, following order is passed.

- (i) Criminal Application is allowed and disposed of.
- (ii) The applicant /accused Vijay Kalnu Tayde be released on bail in connection with Crime No. 200/2020 registered with Police Station Pinjar, District Akola for offence punishable under Sections 498-A, 302 read with Section 34 of the Indian Penal Code, on his furnishing P.R. Bond of Rs. 25,000/- with one or two sureties in the like amount.
- (iii) The applicant/accused 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

Rgd.