

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (BA) NO.406 OF 2021

Sheikh Ishak Sheikh Ibrahim
..vs..
State of Maharashtra, thr. P.S.O.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri V.D. Darne, Advocate for Applicant.
Shri A.M. Deshpande, A.P.P. for Non-applicant/State.

CORAM : VINAY JOSHI, J.
DATED : 17/06/2021

Hearing was conducted through Video Conferencing.

2. The applicant is seeking a regular bail in Crime No.279 of 2020 registered at Ner Parsopant Police Station, District Yavatmal for the offence punishable under Section 304-B, 498-A read with Section 34 of the Indian Penal Code. Besides usual grounds, the applicant claims bail on the ground of parity since the co-accused Jahedabi Sheikh Ishak has been released by this Court vide order dated 25.03.2021 in Criminal Application No.200 of 2021. The State strongly resisted the bail by filing affidavit in reply.

3. Learned A.P.P. has particularly pointed towards the statement of one of the witness namely

Parveen to contend that the role of the applicant is not only of instigating husband of the deceased, but they have forcibly administered poison to the deceased. In other words, according to learned A.P.P. this is a case of homicidal death. However, after completing the investigation, the Police have concluded that the death was otherwise than the normal circumstances and charge-sheet has been filed for the offence of dowry death punishable under Section 304-B of the Indian Penal Code. Shri V.D. Darne, learned Counsel for the applicant has pointed certain statements including a statement of Auto Driver to support his contention that, at the time of death, the applicants were not at all present in their house. Undeniably, on completion of investigation, the Police appears to have concluded that, it is a dowry death and therefore, accordingly, final report has been filed.

4. Perusal of entire police paper reveals that, the main allegations are against the husband of the deceased. The allegations against the present applicant, who is a father-in-law of the deceased, are about instigating his son to harass the deceased to meet unlawful demand. There were similar allegations against the mother-in-law of the deceased namely Jahedabi, who has been released on bail. It reveals that, after releasing Jahedabi, the applicant has approached to the Sessions Court for grant of bail on the ground of parity, however, the Trial Court

distinguished only on the point of gender. The order of Trial Court indicates that though the role of the applicant and Jahedabi was same, however, Jahedabi being a lady, was released by this Court, hence, the Trial Court refused to exercise discretion in favour of the applicant.

5. Apparently, the allegations against the applicant and Jahedabi are of similar footing therefore, merely on the ground of gender distinction, no different view can be taken. Pertinent to note that, co-accused Sheikh Habib has approached to this Court for quashing of the charge-sheet vide Criminal Application No.399 of 2021 in which Division Bench of this Court has stayed the further proceedings of the trial, which is prevailing till date. It is apparent that due to order of this Court, trial has been stayed, therefore, it may take considerable time for its disposal in accordance with law.

6. Having regard to the role assigned to the applicant and as the co-accused having similar allegations, was already released on bail, the applicant can also be released on bail by putting certain conditions. In view of that, following order is passed :

- (a) The applicant/accused Sheikh Ishak Sheikh Ibrahim is released on bail in connection with the Crime No. 279 of 2020 registered at Ner Parsopant Police Station, District Yavatmal for

the offence punishable under Section 304-B, 498-A read with Section 34 of the Indian Penal Code on his furnishing P.R. bond in the sum of Rs.25,000/- with one or two sureties in the like amount.

- (b) 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

Trupti