

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

Criminal Application (BA) 536/2021

Laxman Parkhi V 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

Mr. S.V. Sirpurkar, Advocate for applicant.
 Mrs. K. Deshpande, APP for State.

CORAM : ROHIT B. DEO, J.
DATE : August, 12, 2021.

The applicant, who is in custody since 22-12-2020 in connection with Crime 340 of 2020 registered with Police Station Maregaon, District Yavatmal, under Sections 304-B, 498-A read with Section 34 of the Indian Penal Code (for short, 'I.P.C.'),

2. The wife of the applicant Mrs. 'M' committed suicide on 09-08-2020 by jumping in Well along with her three years old son.

3. The brother of the applicant Khushal lodged a report, on the basis of which offence is registered against the deceased under Section 302 of the I.P.C.

4. Mrs. 'J', who is the sister of the deceased approached this Court in Criminal Writ Petition 387 of 2020 alleging that despite her complaint dated 09-08-2020 that her deceased sister

was subjected to cruelty since the applicant and other members of the family demanded dowry, no cognizance was taken. It appears that Mrs. 'J' also sought quashment of the report registered against her deceased sister under Section 302 of the I.P.C.

5. Criminal Writ Petition 387/2020 appears to have been withdrawn in view of the statement made by the Investigating Officer that the investigation is proceeding on the right lines and the accused will be arrested soon.

6. The present crime is registered by the Police on 21-12-2020 treating the statement of Mrs 'J' recorded on that day as the FIR.

7. The other members of the family are released on bail. Mr. Sirpurkar, the learned counsel for the applicant points out that no cognizance was taken of the earlier complaint on the premise that no offence is disclosed, and to arrive at such a view, the investigating agency looked into various statements recorded. I am not inclined to make any positive observation on the said submission, which would be addressed by the trial Court after the evidence is adduced.

8. However, I do not see any propriety in continuing

the incarceration. The investigation is complete and the chargesheet is filed. It is not even argued that the applicant has adverse antecedents or that he is a flight risk. It is unfortunate that Mrs 'M' took the extreme step. To add to the loss of the life of Mrs 'M' is the loss of the son which the applicant has suffered.

9. I am refraining, consciously, from examining the material on record minutely. Suffice it to say, that considering the statements which are recorded in the enquiry prior to the taking of cognizance it is apparent that there is a counter narrative. Be that as it may, it would be after the entire evidence is recorded that the trial Court will have to consider whether the deceased was treated with cruelty and further whether the cruelty was of such nature as would attract the penal provisions invoked.

10. I am satisfied that denial of bail would only be a pre-trial punishment, in the factual matrix.

11. The application is allowed.

12. The applicant be released on bail in connection with Crime 340 of 2020 registered with Police Station Maregaon, District Yavatmal, under Sections 304-B, 498-A read with Section 34 of the I.P.C., on executing PR bond of Rs. 15,000/- (Rupees

Fifteen Thousand) with one solvent surety of the like amount.

13. The applicant shall, within 48 hrs of release from custody, furnish the current address, cell number/s and any other relevant details by placing on record of the jurisdictional Court an appropriate praecipe and shall scrupulously update this information in case of any change.

14. The applicant shall not, directly or indirectly, make any attempt to influence the witnesses or otherwise tamper with the evidence.

15. The applicant shall not leave the country without the permission of the trial Court.

JUDGE