

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

CRIMINAL APPLICATION (BA) NO.1067 OF 2021

(Shaikh Imran s/o Shaikh Jabbar Vs. State of Maharashtra thr. PSO PS Old City,
Akola, Tah. & Dist. Akola)

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

Court's or Judge's orders.

Mr. S. V. Sirpurkar, Advocate for Applicant.
Mr. M. K. Pathan , APP for Non-Applicant/State.

CORAM: ROHIT B. DEO, J.

DATE: 15th NOVEMBER, 2021.

The wife of the applicant unfortunately expired on 10.08.2020. While according to the applicant she committed suicide by hanging herself, the prosecution case is that she was killed.

2. On the basis of report lodged by the father of the deceased on 10.08.2020, the Old City Police Station Akola registered offence punishable under Sections 302, 304-B, 498-A read with Section 34 of the IPC and Section 4 of the Dowry Prohibition Act. Along with the applicant his parents are implicated in the crime. The parents of the applicant are granted bail.

3. The learned counsel for the applicant Mr. Sirpurkar points that homicidal death is ruled out by the postmortem report and the writing on the palm of the deceased which is to the effect that the deceased is

committing suicide of her free will. Mr. Sirpurkar points out that the writing is duly noted in the inquest *panchnama* as well as the postmortem report and it is not even the case of the prosecution that the handwriting is not that of the deceased or that there was any attempt to mislead or delay the investigation. Mr. Sirpurkar points out that the forensic report which is submitted by two Doctors on the basis of personal inspection of the spot, cannot, at least at this stage, be of any probative value. The forensic report rules out suicidal death on the premise that considering the height of the deceased and the height of the *Divan* which was found in the room, the deceased could not have reached the point of suspension.

4. I am inclined to grant bail for two reasons.

5. The first reason is that the material on record as regards the nature of the death, is extremely fragile from the perspective of the prosecution. This is a *prima facie* observation which shall not influence the trial Judge. The other reason is that perusal of the statements of the witnesses on the aspect of dowry demand reveals that identical and general allegations are levelled against all the three accused. It is not as if there is any particularly different or more serious role attributed to the applicant.

6. It is not shown that the applicant is a flight risk or that he has criminal antecedents as such.

7. The application is allowed.
8. The applicant shall be released on bail on executing personal bond of Rs.25,000/- (Rupees Twenty Five Thousand only) with a solvent surety of like amount.
9. The applicant shall not make any attempt to tamper with the evidence or to influence witnesses, directly or indirectly.
10. The applicant shall attend each date of hearing scrupulously.
11. The applicant shall not leave the country without the permission of the trial Court.

JUDGE

NSN