

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

946 BAIL APPLICATION NO.175 OF 2022

Nitin s/o Shahaji Koradkar
Age: 38 years, Occu.: Agri.,
R/o.Thotewadi, Tq.Karjat,
Dist.Ahmednagar. ..Applicant

VERSUS

The State of Maharashtra
Through Police Station Officer,
Karjat Police Station,
Tq.Karjat, Dist.Ahmednagar. ..Respondent

Advocate for Applicant : Shri Rahul R. Karpe
APP for Respondent : Shri A.V.Deshmukh

CORAM : M.G.SEWLIKAR, J.

DATE: 23rd February, 2022

PER COURT :-

1. By this application under Section 439 of the Code of Criminal Procedure, applicant is seeking his enlargement on bail in connection with Crime No.0649 of 2021, registered with Karjat Police Station, District Ahmednagar, under Sections 306, 498A, 323, 504, 506 of the Indian Penal Code.

2. Prosecution's case in short is that applicant is the husband of deceased Shakuntala. Their marriage was performed on 6th April, 2009. From the wedlock, they have two children by the name of Preeti and Sanket.

3. Applicant is alleged to have been addicted to liquor. On that count, the deceased was subjected to beating by the applicant. He also used to beat her for the non-fulfillment of his unlawful demand of money for purchasing Tractor. About six months before i.e. on 7th March, 2021, applicant had beaten the deceased under influence of liquor and had driven her out of the house. She came back to her maternal place. On 17th April, 2021, deceased Shakuntala was again sent back for cohabitation. Again she was subjected to same ill-treatment. On 24th September, 2021, as she was fed up of ill-treatment, again she came to her maternal place. At that time, she had said that she did not want to live as she was fed up of ill-treatment meted out by the applicant. Again she was sent back for cohabitation. On 30th September, 2021 at 10:00 a.m., applicant took back deceased Shakuntala alongwith two children.

4. It is further alleged that the deceased used to have headache on account of which applicant had taken her to an Ophthalmologist by the name of Dr.Phalka Hospital at Karjat. Deceased Shakuntala went aside on the pretext of urinating. However, since then she did not return. Applicant searched for her. When the deceased was not found, he lodged missing report with Karjat Police Station on 2nd October, 2021. On 11th October, 2021, applicant received a phone call from Karjat Police

Station intimating that the deceased was found floating in a well. Accordingly, applicant and others went there and identified the dead-body to be of Shakuntala. On taking dead-body out of the well, it was found that small stones were wrapped in her saree. Thereafter, report came to be lodged on the basis of which crime under the aforesaid Sections came to be registered on 18th October, 2021.

5. Heard Shri R.R.Karpe, learned counsel for the applicant and Shri A.V.Deshmukh, learned APP for the respondent-State.

6. Shri Karpe, learned counsel for the applicant submits that span of marriage is of 12 years. During this period, not a single complaint was lodged by the deceased. He further submits that since decomposition had started, the Medical Officer, who conducted autopsy reserved the cause of death till the receipt of report of the Chemical Analyzer (CA). The report of the CA is yet to be received. Charge-sheet is filed. General allegations are made against the applicant. He has, therefore, prayed for allowing the application.

7. Shri Deshmukh, learned APP for the respondent-State submits that serious allegations are made against the applicant.

Specific role is assigned to the applicant. He, therefore, prayed for rejection of the application.

8. Admittedly, span of marriage is of 12 years. Nothing has been brought on record to show that the deceased had been subjected to ill-treatment and on that count she had lodged the report. The Medical Officer who conducted autopsy has reserved his opinion. CA report is still not received. Charge-sheet is filed. Allegations against the applicant are general in nature. There is delay of 7 days in lodging the FIR for which no explanation is forthcoming. Applicant has no criminal antecedents. He is not likely to flee from justice. Having regard to all this, I am inclined to release the applicant on bail. Hence, the order:-

ORDER

- i) Bail Application is allowed.
- ii) Applicant be released on P.R.Bond of Rs.15,000/- (Rs. Fifteen thousand only) with one solvent surety in the like amount, in connection with Crime No.0649 of 2021, registered with Karjat Police Station, Dist.Ahmednagar, under Sections 306, 498A, 323, 504, 506 of the Indian Penal Code and on condition that he shall not tamper the prosecution evidence.
- iii) Bail Application is disposed of.

iv) It is clarified that the observations made in this order are restricted to the decision of this application only and the trial Court shall not get influenced by the same and can come to its independent conclusion during trial.

(M.G.SEWLIKAR)
JUDGE

SPT