

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

959 BAIL APPLICATION NO.370 OF 2022

**DHANANJAY DAULAT MISAL
VERSUS
THE STATE OF MAHARASHTRA**

Shri. Chaitanya C. Deshpande, Advocate for the applicant
Shri. S. B. Narwade, APP for the respondent/State

**CORAM : M. G. SEWLIKAR, J.
DATED : 29th MARCH, 2022**

PER COURT :-

1. By this application the applicant is seeking his released on bail in connection with Crime No. 0618/2021 for the offence punishable under Sections 306, 452, 143, 323, 504, 506 read with Section 34 of the Indian Penal Code registered with CIDCO Police Station, District Aurangabad.
2. Facts in brief are that the informant is the wife of deceased Santosh Rathod.
3. It is alleged that on 1st September, 2021 at 8.30 p.m. Kadubai Misal, wife of the applicant, came to the house of the informant and said to the informant that she had illicit relations with husband of the informant i.e. Santosh Rathod. She further

stated that she would not pay the money for construction of the house and would get the house constructed without paying any money. She further stated that she would defame the informant and her husband. Soon thereafter applicant, the husband of Kadubai Misal, along with his brother Ganesh Misal, Devidas Misal and their two sisters by the name of Kavita and Rita trespassed into the house of the informant. Applicant beat deceased Santosh Rathod with kicks and fist blows. Informant was also assaulted by these people.

4. On 2nd September, 2021 at 07.00 a.m., deceased Santosh Rathod asked the informant to lodge the report in the Police Station. He stated that if he came out of the house, the applicant and others would kill him. Thereafter, the informant left the house for registering the FIR. When she came back along with the police, she found the deceased had committed suicide by hanging himself. Accordingly, FIR came to be registered.

5. Heard learned counsel Shri. Deshpande for the applicant and Shri. Narwade, learned APP for the

respondent/State.

6. Learned APP Narwade submits that the applicant assaulted the deceased and on the very next day deceased committed suicide. He submitted that therefore there is nexus between the assault and the suicide. He further submits that deceased committed suicide because of the harassment and the beating by the applicant and his wife. He submits that applicant's wife Kadubai Misal is still absconding. If the applicant is released on bail, it will be difficult for the prosecution to arrest the wife of the applicant Kadubai Misal.

7. Charge-sheet is filed.

8. From the FIR it appears that deceased had illicit relations with accused Kadubai Misal. The only allegation against the applicant is that he had entered the house of the informant and had assaulted her husband Santosh Rathod. Except this there is nothing on record to show that the applicant and other accused abetted the commission of suicide by the deceased Santosh Rathod. Another allegation is that accused Kadubai

Misal had said that she would get the house constructed without paying any money to the deceased. From the allegations in the FIR, it cannot be said that the applicant had instigated the deceased to commit suicide or aided the commission of suicide. From the allegations in the FIR, it does not appear that the applicant had the intention to bring about the suicide of the deceased. Offence is not punishable with death or imprisonment for life. Role of the accused is one of the considerations for releasing the accused on bail as held by the Hon'ble Supreme Court in the case of ***Sushila Aggarwal Vs. State of (NCT of Delhi)*** reported in ***(2020)5 SCC 1***, the Hon'ble Supreme Court has held that while considering an application for bail the Court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation, or tampering with evidence and likelihood of fleeing justice. As stated earlier, applicant does not have criminal antecedents. Therefore, there is no likelihood of the applicant repeating the same offence again. In this view of the matter, I am inclined to release the applicant on bail. Hence the order.

ORDER

1. Application is allowed.

2. Applicant be released on bail on his furnishing PR bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with one solvent surety in the like amount in connection with CR No. 0618/2021 under Sections 306, 452, 143, 323, 504, 506 read with Section 34 of the Indian Penal Code registered with CIDCO Police Station, District Aurangabad on condition that he shall not tamper the prosecution evidence and shall not enter municipal limits at Aurangabad till the conclusion of the trial.

3. Application is disposed of.

4. It is clarified that the observations made in the above 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, J.]

ssp