

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.375 OF 2022

RAJU S/O RAMBHAU GAWALI
VERSUS
THE STATE OF MAHARASHTRA

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Mr. P. P. More, Advocate for applicant.
Mr. S. B. Narwade, APP for the respondent – State.

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CORAM : SMT. VIBHA KANKANWADI, J.

Reserved on : 13.04.2022

Pronounced on : 05.05.2022

ORDER :-

. Applicant came to be arrested on 25.11.2021 in connection with Crime No.192 of 2021 registered with Paradh Police Station, Dist. Jalna for the offences punishable under Section 306 read with Section 34 of Indian Penal Code. He has filed present application under Section 439 of the Code of Criminal Procedure.

2. Heard learned Advocate Mr. P. P. More for the applicant and learned APP Mr. S. B. Narwade for the respondent – State. In order to cut short, it can be said that both of them have made submissions in support of their respective contentions.

3. At the outset, it is to be noted that the investigation is complete and charge-sheet is filed on 29.12.2021 against seven persons.

Therefore, the custody of the applicant for the purpose of investigation is not necessary. It is then required to be seen as to what evidence has been collected against the applicant. The offence that is invoked is under Section 306 of Indian Penal Code and though there appear to be such contentions in the FIR as well as the statements of witnesses, offence under Section 498-A of Indian Penal Code has not been invoked. Present applicant is the husband of the deceased. Present applicant got married about 13 years prior to the FIR with deceased and they have son aged 10 and daughter aged 7. Informant is the sister of the deceased. She alleges that 10 days after the marriage, deceased had seen the present applicant having sexual intercourse with his sister-in-law in the house and thereafter, there were quarrels. Meeting was arranged and deceased and her husband started residing separately. She then states that deceased was treated properly till the birth of the son, however, thereafter, the husband, sister-in-law, sister-in-law's husband (husband of sister of present applicant) used to harass deceased. Even deceased used to convey on phone that the illicit relations between husband and sister-in-law (brother's wife) is going on, however, according to the informant, they used to give advise to the deceased itself. At about 2.00 a.m. on 15.09.2021, deceased had given phone call to her brother Ramkrushna and told that he should save her as the applicant will not

allow her to live. Therefore, the brother went to the house of sister. Applicant gave him threat that he will not allow wife to go along with brother and he is ready to go to jail. Brother of the deceased stayed there till 8.00 a.m. and then came back. It is then stated that brother-in-law of the deceased as well as father-in-law took her to Balapur and told that she should be taken to hospital. Whatever expenses would be there, they would bear. However, applicant went there and asked deceased as to how she could come to that place without asking him and applicant assaulted her with belt. Informant and others asked the deceased that she should lodge report with police station. She was not ready, but they had taken her to police station. Medical Memo was given and then she took treatment with the Government Hospital. She was told that she will have to get MRI done and, therefore, she had treatment in a private hospital for about 6 days. On 21.09.2021, when they were about to bring her back to paternal home, her father-in-law and sister-in-law's husband said that she would be saved and they are taking her home. However, on 23.11.2021 between 6.00 to 8.00 p.m., deceased committed suicide by hanging.

4. The statements of witnesses are almost on the same line. As aforesaid, the prosecution has not yet invoked Section 498-A of Indian Penal Code. Under such circumstance, when the postmortem report,

inquest panchanama and the statements of witnesses clearly show that they are accepting the fact that deceased Chaya had committed suicide, we cannot infer in other foul play. First of all, the alleged act of illicit relations is stated to have taken place within 10 days of marriage, but then the deceased is having elder son of 10 years, so it is indigestible that with this kind of allegations or fact known to her, she would have continued to cohabit with the applicant. Statements of witnesses as well as informant under Section 164 of the Code of Criminal Procedure has tried to give a colour of homicidal death, but the charge-sheet is filed under Section 306 of Indian Penal Code. What had happened between 21.09.2021 to 23.11.2021 at the matrimonial home or the place where the deceased was staying along with the applicant is, in fact, important fact and for that purpose there is very less evidence. The witnesses appear to be from the place of paternal home of the deceased. Therefore, with this kind of evidence and when the charge-sheet has been filed, the applicant need not be asked to remain in jail. It will take long time to stand the trial. The application deserves to be allowed. Hence, the following order :-

ORDER

- I) The application is hereby allowed.
- II) Applicant – Raju Rambhau Gawali, who has been arrested in connection with Crime No.192 of 2021 registered with Paradh

Police Station, Dist. Jalna for the offences punishable under Section 306 read with Section 34 of Indian Penal Code, be released on P. R. Bond of Rs.50,000/- with two solvent sureties of Rs.25,000/- each.

III) The applicant shall not tamper with the evidence of the prosecution in any manner.

IV) He should cooperate with the investigation.

V) He shall not indulge in any criminal activity.

VI) Bail before the Trial Court.

[SMT. VIBHA KANKANWADI, J.]

scm