

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

926 BAIL APPLICATION NO.387 OF 2022

SANDEEP HANMANT WADJE

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. Avinash Suryawanshi, Advocate for the applicant

Mr. S.B. Narwade, APP for the respondent

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 20th APRIL, 2022

PER COURT :

1 The applicant has been arrested on 16.01.2022 in connection with Crime No.522/2021 dated 14.11.2021 registered with Degloor Police Station, Dist. Nanded, for the offence punishable under Section 498-A, 306 read with Section 34 of the Indian Penal Code, 1860. The applicant is the son-in-law of the deceased as well as informant. Informant's daughter Madhuri got married to the present applicant on 12.07.2020. What is undisputed is that present applicant is the son of sister of deceased. The informant has stated that within 15 days of the marriage the applicant and his family members started harassing and giving cruel treatment to Madhuri

and even prior to January, 2021 she was left at the house of informant, but then with the mediation of some other persons she was taken to her matrimonial home in January, 2021. Thereafter the present applicant had taken her to Pune, where he is serving. It is then stated that the family members of the applicant, who were residing at Pune, started harassing Madhuri on domestic count as well as on the count that she should bring amount of Rs.5,00,000/- for purchase of flat at Pune and also for a four wheeler. According to the informant, in the month of March, 2021 the applicant had given a call and asked the informant and her husband that they should take Madhuri back. Accordingly, deceased and the brother of the informant had brought her to informant's house and then it is stated that after narrating the treatment given to her, Madhuri told that she was given cruel treatment and since then Madhuri was residing with the informant. According to the informant, her husband as well as herself had made many efforts for the cohabitation of the daughter but the applicant and his family members refused on the count that unless their demand is fulfilled they will not allow Madhuri to cohabit. The informant then says that around 9.00 p.m. on 13.11.2021 they went to sleep but deceased made complaint about burning sensation in his chest, then, informant and the deceased were talking up to 1 O'clock, thereafter she went asleep. She woke up around 2.10 a.m. and found that her husband was not in the bed. Therefore, she went upstairs

and found that deceased had hanged himself. She has stated that her husband always used to say that because of the harassment given by the in-laws and husband of the daughter and she is not being allowed to cohabit her life has been ruined. He used to be in tension and the mother of the present applicant had also given an application for separation of her share from agricultural land and on that count also the husband of the informant felt harassed. According to the informant, because of all these activities on the part of the applicant and co-accused they had committed abetment of the suicide of the deceased.

2 Heard learned Advocate Mr. Avinash Suryawanshi for the applicant and learned APP Mr. S.B. Narwade for the respondent. In order to cut short, it can be said that they have argued in support of their respective contentions.

3 The investigation is complete and charge sheet has been filed. Under such circumstance, it is certain that the further physical custody of the applicant is not required for the purpose of investigation. It is very much apparent from the police papers that accused No.3 Ravanbai was the sister of the deceased. That means, each others behaviour from both the families was known to each other. With this background the allegation of harassment

within 15 days of the marriage appears to be unbelievable. We cannot go much in depth in this respect when since we are at a very prima facie stage and, therefore, whatever evidence has been collected is required to be seen. The cause of death given in Postmortem Report is - "Due to cardiorespiratory arrest due to hanging". Therefore, there is no dispute about commission of suicide by the deceased. Now, cause is required to be considered. At the time of inquiry in Accidental Death, especially the spot panchnama, a suicide note has been recovered. There is no signature on the said suicide note. Natural handwriting of the deceased is stated to have been collected and along with the suicide note it has been sent to analysis of the handwriting expert, however, the charge sheet does not contain the opinion of the handwriting expert. Even if we consider the suicide note as it is, it makes mention about harassment by sister Ravanbai, applicant Sandip and his family members. No particulars of the same are given and not only against those persons but other persons have also been stated to have given harassment to him and they are stated to be the cause for his suicide. But none other persons named in the suicide note have been made as an accused. Rather some of them have been posed as witnesses. Witness Satish Babarao Bamne, Ramesh Mariba Honsangde, Sudhakar Narsing Totawar and Ashok Narsing Totawar all are saying that they have no financial transaction with the deceased and nothing was due from deceased to them. They all have

stated that they have no idea as to why their name has been taken in the suicide note. Whether this suicide note can be therefore considered as a piece of evidence for abetment to commit suicide itself is a question.

4 Statements of other witnesses including the neighbours and other relatives, no doubt, are consistent about the harassment or cruelty which can be stated to be covered at this prima facie stage under Section 498-A of the Indian Penal Code, but in order to connect it to Section 306 of the Indian Penal Code and that too the deceased is the father-in-law of the applicant, then, the other factors are also required to be considered. In the First Information Report itself as well as in the statements of other witnesses it has come that Madhuri was brought by deceased Shankar as well as brother of the informant in the month of March, 2021. Deceased Shankar committed suicide on 13.11.2021. So, what had happened between March, 2021 to November, 2021 was the important thing and how many times there was an attempt by deceased as well as informant for resolving the dispute ought to have been clarified in proper way. Only one sentence will not be then sufficient. Unfortunately, after the next day of suicide by deceased Shankar even Madhuri expired on 14.11.2021 and cause of death of Madhuri is - "Due to cardiorespiratory arrest due to intracranial hemorrhage". May be due to the shock of the suicide by father she had suffered the

cardiorespiratory arrest, it is very much unfortunate, but the fact that is required to be considered is, whether there was active abetment by the present applicant. Use of the words “harassment” “cruelty” “abetment” without giving the details thereof are of no use. When there are options available, may be on the social platform, may be on the legal platform and without adopting those platforms if extreme step is taken, then, whether such suicide can be said to be the outcome of alleged abetment or instigation will have to be decided by the Trial Court. Prima facie except the allegations about cruelty within the framework of Section 498-A of the Indian Penal Code there appears to be nothing. Because of the time gap, that is, between March, 2021 to November, 2021 deceased Shankar had no option but to commit suicide is the question and if answer to that question is ‘Yes’, then only it would amount to offence under Section 306 of the Indian Penal Code. At the cost of repetition, it can be said that the suicide note includes names of other persons also but they have been posed as witnesses.

5 With this kind of evidence the applicant need not be asked to remain in jail for indefinite period. He deserves to be released on bail. Hence, following order.

ORDER

1 Application stands allowed.

2 Applicant viz. **Sandeep Hanmant Wadje**, who has been arrested in connection with Crime No.522/2021 dated 14.11.2021 registered with Degloor Police Station, Dist. Nanded, for the offence punishable under Section 498-A, 306 read with Section 34 of the Indian Penal Code, 1860, be released on P.R. of Rs.30,000/- (Rupees Thirty Thousand only) with two solvent sureties of Rs.15,000/- (Rupees Fifteen Thousand only) each.

3 The applicant shall not tamper with the evidence of the prosecution, in any manner.

4 He shall not indulge in any criminal activity.

5 Applicant shall not visit Sugaon nor contact any witness till conclusion of trial.

6 Bail before Trial Court.

(Smt. Vibha Kankanwadi, J.)