

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

919 APPLICATION FOR CANCELLATION OF BAIL NO.48 OF 2022

SANDIP YUVRAJ PATIL

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Mr. R.R. Kazi, Advocate for the applicant

Mr. V.M. Kagne, APP for the respondent No.1

...

WITH

APPLICATION FOR CANCELLATION OF BAIL NO.49 OF 2022

SANDIP YUVRAJ PATIL

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Mr. R.R. Kazi, Advocate for the applicant

Mr. V.M. Kagne, APP for the respondent No.1

...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 31st MARCH, 2022

ORDER :

1 Both the applications have been filed by the original informant

under Section 439(2) of the Code of Criminal Procedure, 1973. The challenge is to the bail granted to the respondent Nos.2 to 5 in both the cases by learned Additional Sessions Judge, Bhusawal, Dist. Jalgaon in Crime No.1/2022 registered with Bhusawal Taluka Police Station, Dist. Jalgaon, for the offence punishable under Section 306, 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code, 1860. The applications filed under Section 438 of the Code of Criminal Procedure came to be allowed on 28.01.2022 and 18.02.2022 respectively.

2 Heard learned Advocate Mr. R.R. Kazi for the applicant and learned APP Mr. V.M. Kagne for the respondent No.1, in both matters. It is not even necessary to issue notice to the respondent Nos.2 to 5 in both cases, taking into consideration the contents of the application, First Information Report and the documents produced as well as the reasoning given by the learned Additional Sessions Judge, Bhusawal.

3 Informant is the brother of deceased Sunita, who got married to respondent Vijay Balu Patil on 14.05.2007. She has two sons aged 13 years and 06 years respectively. The informant says that since after birth of the first son in 2009 there was illegal demand of Rs.1,00,000/- by the husband and his relatives. It is then stated that she was subjected to cruelty on that

count. It appears that some proceedings were also filed due to the matrimonial dispute, but it was settled. It is then stated that till the First Information Report his family has given about Rs.80,000/- to Rs.90,000/- to the respondents, however, there was no reduction in cruel treatment. Even in 2021 it appears that she had filed application for maintenance stating that she was driven out of the house. There was Court proceeding day on 04.01.2022 but it appears that she committed suicide by hanging on 03.01.2022 around 9.30 p.m. in the house of her parents.

4 The first and the foremost fact is that as regards the offence under Section 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code is concerned, the ratio of **Arnesh Kumar vs. State of Bihar, 2014 (8) SCC 273** would come into play and that would have been followed by the police if Sunita would have been alive. But then she has committed suicide and, therefore, Section 306 of the Indian Penal Code is applied. The suicide has been committed in her parents house. The First Information Report would show that in January, 2020 there was a meeting, wherein after advising Sunita was sent for cohabitation, however, within 8 days she was assaulted and abused. She lodged report in respect of the same incident with Bhusawal Taluka Police Station on 10.01.2022. It is thereafter stated that her husband and in-laws left Sunita to her parental house and kept the sons with

them. Again Sunita went to Women Cell, Jalgaon to lodge report against husband and in-laws. Before the Women Cell, the husband and in-laws refused her to take back for cohabitation and, therefore, she filed case for restitution of conjugal rights and maintenance in Court. Here, the informant has not given the exact date, since when Sunita was residing with her parents. But, just prior to her suicide she was with her parents and other relatives, then, the question is, how the respondents would have instructed her to commit suicide. When there are question marks as to whether offence under Section 306 of the Indian Penal Code has been committed or not, then, it can be said that the learned Additional Sessions Judge was justified in exercising his discretionary powers under Section 438 of the Code of Criminal Procedure. No case is made out to set aside the impugned orders. Applications stand rejected.

(Smt. Vibha Kankanwadi, J.)