

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

**BAIL APPLICATION NO.1541 OF 2022
WITH APPLN/3312/2022 IN BA/1541/2022**

**GAURAV NAGNATH DABHADE
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Applicant : Mr. Ladda Somnath G.
APP for Respondent/State : Mr. V.M. Kagne
Advocate for Complainant : Mr. M.B. Sandanshiv

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CORAM : S.G. MEHARE, J.

DATED : 13th OCTOBER, 2022

PER COURT:-

1. Heard learned counsel for the applicant, learned APP for the State and learned counsel appearing for the complainant.
2. The changing face of the marriage institution is a matter of concern. Before marital life begins, in a short time, it destroys the life of both the newly married couple and their families. As soon as the newly married woman dies, the reports of mental and physical harassment for dowry are lodged in the hit of anger. It is experienced in most cases; there used to be no complaint against the husband and in-laws, but the sudden suicide of the newly married woman changes the entire scenario, and the woman's family starts making wild allegations of demand for dowry. It has also been experienced that the remote relatives and relatives who do not reside under one roof are also arraigned as accused. The Hon'ble Supreme Court, in the

Case of Arnesh Kumar v State of Bihar also expressed concern about the rising cases of matrimonial disputes and arrest of the husband and his family and the irresponsible exercise of the powers of the Police under such cases. The observations of the Hon'ble Supreme Court are in the following words;

"There is phenomenal increase in matrimonial disputes in recent years. The institution of marriage is greatly revered in this country. Section 498-A of the IPC was introduced with avowed object to combat the menace of harassment to a woman at the hands of her husband and his relatives. The fact that Section 498-A is a cognizable and non-bailable offence has lent it a dubious place of pride among the provisions that are used as weapons rather than shield by disgruntled wives. The simplest way to harass is to get the husband and his relatives arrested under this provision. In a quite number of cases, bed-ridden grand-fathers and grand-mothers of the husbands, their sisters living abroad for decades are arrested..."

"Arrest brings humiliation, curtails freedom and casts scars forever. Lawmakers know it so also the Police. There is a battle between the lawmakers and the Police and it seems that Police has not learnt its lesson; the lesson implicit and embodied in the Cr.P.C. It has not come out of its colonial image despite six decades of independence, it is largely considered as a tool of harassment, oppression and surely not considered a friend of public. The need for caution in not exercising

the drastic power of arrest has been emphasized time and again by Courts but has not yielded desired result. Power to arrest greatly contributes to its arrogance so also the failure of the Magistracy to check it. Not only this, the power of arrest is one of the lucrative sources of police corruption. The attitude to arrest first and then proceed with the rest is despicable. It has become a handy tool to the police officers who lack sensitivity or act with oblique motive."

3. After considering the social changes in matrimonial institutions, the Police's powers to arrest and irresponsible use of those powers, the humiliation of the persons arrested, its stigma and the way of investigation, the Hon'ble Supreme Court in the above case has issued the guidelines for the Police regarding the use of powers to arrest.

4. The guidelines appear to have not been understood in proper perception. The practice of arrest first and then the investigation has not seen any change. The allegations against the accused are considered gospel truth, and without thinking over the allegations, the Police start chasing the husband and his family for their arrest.

5. In the case at hand, the history appears to have been repeated. The deceased, before suicide, wrote a long chit addressing her father. Her father knew the allegations and the cause of her suicide. The said chit was with the Police, but ignoring the best piece

of evidence, the unnecessary importance was given to the FIR, and the in-laws whom the deceased had praised were immediately arrested. Nothing was alleged against them, but once again, the Police showed their insensitivity and arrested them. They were behind the bar for four months.

6. Unfortunately, in the absence of harassment to the deceased for dowry, the entire family of the applicant was sent behind bars. It is experienced that when a married woman dies, the parents cook a story and make wild allegations of demand for dowry and mental and physical harassment for dowry. This case is one more example in which a story appears to have been cooked, making wild allegations, against the husband and in-laws, of demand of dowry and harassing the deceased for dowry. The Police also did not investigate whether there were allegations of demand of dowry and harassment for the same. Since the report was lodged, the crime was registered mechanically, and all the accused were arrested and sent behind bars.

7. Learned counsel for the applicant read the last message of the deceased transmitted to her father through her assumed brother. In the said message, she praised her in-laws. It seems from the contents of her last message that there were differences of opinion between the applicant and the deceased. It was alleged that the applicant was not listening to her. It has also been alleged that every time the husband misunderstood her. When they had been to Goa for

their honeymoon, he was drinking liquor and eating non-veg. She was upset about it. Due to these habits of the applicant, the deceased was uncomfortable. In short, there was not a single word of allegations that her husband and in-laws harassed her for the demand of dowry. The reason for the suicide appears otherwise.

8. Without touching the other investigation papers, the Court put a question to the learned counsel appearing for the complainant what explanation he had about the suicide chit? He did not deny that the deceased transmitted the text message to the father of the deceased, and he tried to point out other material. It may not be ruled out that the Investigation Officer has collected the evidence after transmitting this message. Nobody knows under what situation the witness deposed against the applicant. At the cost of repetition, it may be stated that the last message of the deceased was the best evidence to know the cause of death.

9. The Court has sympathy for the young victim girl who lost her life within two months of her marriage. But it appears that she choose to end her life. The Court has to consider the material produced before it. Considering the last message of the deceased to her father, the Court believes that in the absence of any material against the applicant abating the deceased to commit suicide and harassing her for the dowry, it would be unjustifiable to keep him behind bars. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, Gaurav Nagnath Dabhade, be released on bail on executing P.B. and S.B. of Rs.25,000/- (Rupees Twenty Five Thousand) with one surety in the like amount in connection with Crime No.67/2022, registered at Vaijapur Police Station, District Aurangabad for the offences punishable under Sections 498-A, 304-B, 323, 504 r/w 34 of the Indian Penal Code and Section 3 and 4 of Dowry Prohibition Act, on the condition to attend the trial at every material date and shall not tamper with the prosecution witnesses.
- (iii) Criminal Application No.3312 of 2022 is allowed.
- (iv) Needless to state, the observations in this order are restricted to the bail application only.

(S.G. MEHARE, J.)