

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 2613 OF 2021

Ajinkya Jalindar Sathe ... Applicant

Versus

The State of Maharashtra ... Respondent

Mr. Abad Ponda, Senior Advocate i/b Shailesh Kharat, for the Applicant.

Mr. H. J. Dedhia, APP, for the State-Respondent.

Mr. Shirish Gupte, Senior Advocate a/w Mangesh Kharabe i/b Veerdhaval Kakade, for Intervenor.

CORAM : V. G. BISHT, J.

RESERVED ON : 14th December, 2021.

PRONOUNCED ON : 20th January, 2022.

PC:-

. The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in C.R. No. 381 of 2021 registered with Wakad Police Station, District-Pune for the offences punishable under Sections 306, 354(D), 292, 500, 506 r/w 34 of the Indian Penal Code (IPC) and Section 66E of the Information Technology Act.

2 It is the case of prosecution that the applicant is grandson of

cousin aunt of informant. Shraddha Dynaneshwar Kokane (deceased) was the elder sister of the informant. According to prosecution, the applicant and the deceased got acquainted with each other and somewhere in the month of December 2019 applicant's parents and other family members proposed marriage between them. Initially, the parents of the deceased were reluctant, however, they succumbed the pressure to the parents of the applicant. Seeing this the relatives of the applicant started demanding four-wheeler and 200 tolas of gold in the marriage ceremony. As deceased and her family members were not ready for such marriage, they refused.

3 The prosecution alleges that the applicant then started threatening and forcing the deceased to perform marriage or else he would make their photographs and videos viral. The applicant then started harassing the deceased on social medial. The deceased was also threatened with acid attack. The prosecution alleges that owing to such harassment, deceased ended her life and accordingly, the First Information Report (FIR) came to be registered.

4 Mr. Ponda, learned senior Counsel for the applicant, submits that the ingredients of Section 306 of IPC are totally missing inasmuch as no case is made out under Section 306 of IPC. Even the suicide note relied on by the prosecution would show that there was relationship between the deceased and the applicant. It is only later on when the deceased came to know the relations of the applicant with other girls, she refused to marry. The applicant was only pursuing her for marriage. The investigation is completed. Charge-sheet has been filed. There are no criminal antecedents. In such circumstances, the applicant deserves to be released on bail, argued learned Counsel.

5 Learned senior Counsel also placed reliance in **M. Arjunan vs. State¹**, **Arnab Manoranjan Goswami vs. State of Maharashtra and Ors.²**, **Geo Verghese Vs. State of Rajasthan³**, **Kanchan Sharma vs. State of Uttar Pradesh and Anr.⁴**, **Rajesh vs. State of Haryana⁵**, **Madan Mohan Singh vs. State of Gujrat and Anr.⁶** and **Rajul Raj**

Singh vs. The State of Maharashtra⁷

1 (2019) 3 Supreme Court Cases 315

2 (2021) 2 Supreme Court Cases 427

3 2021 SCC Online SC 873

4 2021 SCC Online SC 737

5 (2020)15 Supreme Court Cases 359

6 (2010) 8 Supreme Court Cases 628

7 2016 SCC Online Bom 6332

6 Mr. Dedhia, learned APP, on the other hand, vehemently opposed the submissions by contending that there are sufficient material on record to attract the ingredients of Section 306 of IPC. Learned APP also placed reliance on the suicide note filed on record and would submit that in the facts and circumstances of the case, the applicant does not deserve to be released on bail.

7 Mr. Gupte, learned senior Counsel for intervenor, also vehemently opposed the submissions by contending that there was continuous and severe harassment of the deceased at the hands of applicant and his family members. Learned senior Counsel also emphasized the significance of suicide note and then would submit that having regard to the material on record, the applicant does not deserve to be released on bail.

8 Learned senior Counsel for intervenor also placed reliance in **Ramesh Kumar vs. State of Chhattisgarh⁸, S.S. Chheena vs. Vijay Kumar Mahajan and Anr.⁹, Chitresh Kumar Chopra vs. State (Government of NCT of Delhi)¹⁰ and UDE Singh and Ors. Vs. State**

8 (2001)9 Supreme Court Cases 618

9 (2010) 12 Supreme Court Cases 190

10 (2009) 16 Supreme Court Cases 605

of Haryana¹¹.

9 Perused the investigation papers.

10 I have also gone through the various citations relied on by either side. There cannot be any dispute about the essential ingredients of the offence under Section 306 of IPC, which are as under:

(a) the abatement;

(b) the intention of the accused to aid or instigate or abet the deceased to commit suicide. There must be evidence on record suggesting and pointing out that the accused intended by such an act to instigate the deceased to commit suicide. Needless to say, unless the ingredients of instigation/abetment to commit suicide are satisfied the accused cannot be convicted under Section 306 of IPC.

11 From the material on record, what emerges is that initially the family members of the deceased had agreed to solemnize the

¹¹ (2019) 17 Supreme Court Cases 301

marriage of deceased with applicant, however, when they came across the various demands coming from the side of applicant's family members and as also the applicant having addicted to vices, they decided not to go ahead with the marriage ceremony. It is from then the applicant and his family members started harassing the deceased. Even certain photographs and videos were made viral, apart from threats of acid attack.

12 It appears that somehow the applicant wanted to perform marriage with the deceased. I have also gone through the photographs filed on record. I do not find anything objectionable in those photographs. Rather, the deceased and the applicant appears to be in good mood in those photographs.

13 The crucial aspect of the prosecution case is the suicide note which is produced on record at page 78 by the prosecution. If the whole suicide note is read in proper perspective, it would be seen that according to deceased she was tortured and harassed mentally by applicant that she found the applicant to be a bad man to whom she was trying to marry but because of his vices (roaming outside

with other girls) and even she did not like the demand of various articles before the marriage. She was also concerned about the threat of acid attack given by the applicant. For all these reasons, she made up her mind and at last committed suicide.

14 As far as suicide note is concerned, it will have to be appreciated by the learned trial Court at the time of trial along with surrounding circumstances and other evidence. I have already noted at the beginning that somehow the applicant wanted to marry the deceased. Even the whole tenor of the suicide note prima-facie would not suggest that it was the applicant's instigation or that by doing certain act i.e. in order to achieve the death of the deceased, he facilitated the commission of suicide by the deceased. Apart from above, the offence is not punishable with life or death. Investigation is completed. Charge-sheet has been filed. There are no criminal antecedents. In such circumstances, keeping the applicant behind the bars is unwarranted inasmuch as the trial may take its own time.

15 In view of above, I am inclined to allow the application.

Hence, the following order.

ORDER

(i) Applicant- Ajinkya Jalindar Sathe shall be released on bail in C.R. No.381 of 2021 registered with Wakad Police Station, District-Pune on his executing P .R. bond in the sum of Rs. 25,000/- with one or more sureties in like amount.

(ii) The applicant shall not tamper with the prosecution evidence and shall attend the trial regularly.

(iii) The observations made herein-above are prima-facie in its nature for the purpose of deciding the bail application only. The trial Court shall not be influenced by the observations while deciding the case on merits.

(iv) Bail before the trial Court.

(v) The application is allowed in the aforesaid terms and stands disposed of accordingly.

(V. G. BISHT, J.)