

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

**INTERIM APPLICATION NO. 2237 OF 2022
IN
CRIMINAL APPEAL NO. 747 OF 2022**

Bharat laxman Pardhi

..Applicant.

Versus

The State of Maharashtra & Anr.

..Respondents

Mr. Aniket Nikam i/b. Piyush R. Toshnival for Applicant.
Mr. Y. Y. Dabke APP for State/Respondent No.1.

CORAM : SARANG V. KOTWAL, J.
DATE : 4th AUGUST 2022

PC :

1. This is an application for bail pending the hearing of Appeal. The Appeal is already admitted.
2. Heard Shri. Aniket Nikam, learned counsel for the Applicant and Shri. Dabke, learned APP for the State.
3. The prosecution case is that, the applicant was married to his wife Kalpana on 19/04/1999. She committed suicide on 13/11/2012. In the meantime, the couple had one daughter and two sons. It is the case of prosecution that, the deceased was

harassed by the applicant and his mother on demand of Rs.30,000/-. There are also allegations that the applicant was having illicit affair with the original accused No.3 and was causing humiliation and harassment to the deceased. The applicant was original accused No.1, his mother was accused No.2 and that third lady was the accused No.3. Accused Nos.2 and 3 were acquitted. The applicant who was accused No.1 was convicted for commission of offence punishable U/s.498A of IPC and was sentenced to suffer R.I. for three years and to pay a fine of Rs.15,000/- and in default to suffer R.I. for 6 months. He was also convicted for commission of offence punishable U/s.306 of IPC and was sentenced to suffer R.I. for 5 years and to pay a fine of Rs.25,000/- and in default to suffer R.I. for 12 months.

4. Learned counsel for the applicant submitted that the incident had taken place after about more than 12 years from the marriage. Therefore, presumption U/s.113 of Indian Evidence Act will not be applicable against the applicant. He submitted that the act attributed to the applicant will not amount to 'abetment' within the meaning of Section 107 r/w. Section 306 of IPC. The

applicant was on bail during trial and he has not committed any other offence. He has not misused the liberty. The maximum sentence is of 5 years and the appeal is not likely to be taken up for hearing within that period.

5. Learned APP opposed this application and submitted that, there is sufficient evidence to show that, there was unlawful demand of Rs.30000/- and on that count, the deceased was harassed. Apart from that, the applicant was having illicit relations with the accused No.3 and was causing humiliation which has resulted in deceased's taking this extreme step.

6. I have considered these submissions and I have perused the Judgment, as well as, depositions of the witnesses. The prosecution has examined PW-1 mother of the deceased, PW-4 father of the deceased and PW-5 brother of the deceased. Their evidence is on similar lines. However, PW-5 brother of the deceased has not deposed about demand of Rs.30000/-. He has stuck to the story of illicit relations between the applicant and accused No.3. He was declared hostile. The I.O. was not examined.

The deceased had committed suicide after about 12 years of her marriage. Whether the reason for her committing suicide was harassment caused due to non fulfillment of demand of Rs.30000/- or because the applicant was having illicit relations with the accused No.3 will have to be considered. Whether such affair caused her harassment to such a degree which would attract Section 107 r/w. Section 306 of IPC. is another question to be considered. More importantly, maximum sentence imposed is of 5 years and the Appeal is not likely to be decided within that period. Therefore, the applicant can be released on bail during pendency of this Appeal.

7. Hence, the following order:

O R D E R

- i) During pendency and final disposal of Criminal Appeal No.747 of 2022, the applicant is directed to be released on bail on his furnishing P.R. bond in the sum of Rs.30000/- with one or two sureties in the like amount.
- ii) The Application is disposed off.

(SARANG V. KOTWAL, J.)