

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.3267 OF 2021

Roshan Tukaram Thange	.. Applicant
Versus	
The State of Maharashtra & Anr	.. Respondents

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Mr.Daulat G. Khamkar i/b Rajbali Dubey for the applicant.
Mr.P.H. Gaikwad, APP for the State.
Mr.Amit M. Dubala, Kulgaon police station, present.

CORAM: BHARATI DANGRE, J.
DATED : 28th FEBRUARY, 2022

P.C:-

1 The applicant is seeking his release on bail on being charge-sheeted for an offence punishable under Section 498A, 306, 34 of the IPC vide RCC No.828 of 2021. He came to be arrested on 10th May 2021 and since then, remain incarcerated.

2 Heard Shri Daulat Khamkar, learned counsel for the applicant and the learned APP Mr.P.H. Gaikwad for the State.

3 The applicant is the husband of Nikita, with whom his marriage was solemnized on 6th April 2017. She continued to reside with the family of the applicant along with his father, mother, brother, brother's wife and sister-in-law at Mankivli,

Tilak

Ambernath. On 12th April 2021, Nikita committed suicide by throwing herself on the railway track between Badlapur and Vangani.

4 The mother of Nikita, Sou. Surekha Khambale lodged a report in Kulgaon Police Station on 8th May 2021 levelling several allegations against the applicant and his family. She alleged that on the marriage being performed on 6th April 2017, a sum of Rs.Five to six lakhs was expended, but her daughter was subjected to harassment. The complainant stated that her mother-in-law used to take jibe at her family since they were not affluent and it is alleged that she was made to suffer humiliation on account of her poverty. It is also alleged that her father-in-law and brother-in-law used to scold her on the count that she was not able to cook good food. Her mother-in-law and sister-in-law Asmita is also alleged to have harassed her on the ground that she was not able to bear any child. When the daughter was born, it is alleged that she was again meted out ill-treatment on the ground that no son was born. As far as the present applicant is concerned, in the complaint it is alleged that he was subjecting her to physical and mental cruelty by siding with his relatives and was insisting that Nikita bring an amount of Rs.20 lakhs from her parents. In the complaint, it is stated that this fact was narrated to the complainant and her father on telephone, from time to time. It is also stated in the complaint

that this was also informed by Nikita to one Nilesh Thange, her cousin brother and her cousin brother-in-law Shantaram Khambale. When she was asked to file a complaint, she expressed hesitancy by stating that she wanted to live a happy married life and therefore, no complaint was filed. This, however, proved detrimental to her since the harassment never stopped.

5 The complainant alleged that on 9th April 2021, Nikita was brought to her parental house and when she made an attempt to disclose her real facts to her husband and instead, demanded an amount of Rs.20 lakhs. However, since there was some function in the family, it was decided that some via media will be worked out after the said function. However, on 12th April 2021, her pregnant daughter run herself on the railway track and committed suicide.

This complaint resulted in registration of the offence against the present applicant i.e. husband and his other five relatives who have been granted Anticipatory bail.

6 My attention is invited to the material contained in the charge-sheet, which include the statement of the complainant and also the statement of one Shantaram Khambale and Sachin Khambale. Perusal of the statement of the complainant as well as the other relatives of the complainant which are compiled in the charge-sheet, refer to the harassment of the deceased Nikita

spread over from a span of 2017 i.e. from the date of her marriage, till she committed suicide. The accusations are vague in nature and as far as the present applicant is concerned, except stating that she was subjected to mental and physical harassment, and taking side of his other family members who were subjecting her to cruelty, no other allegation is specifically levelled against the present applicant. The demand of Rs.20 lakhs is not by way of dowry but as the complainant has stated in her complaint, it is a vague allegation without any basis being stated in the complaint. The statements of the witnesses compiled in the charge-sheet are general in nature and as far as the present applicant is concerned, no specific role has been attributed to him which would be sufficient to attract Section 498A. As far as Section 306 is concerned, the complaint do not point out to any instigation/incitement to commit suicide as required under Section 306 of the IPC, since on 12th April 2021, Nikita committed suicide. No material is included in the charge-sheet which would *prima facie* establish that the husband had incited or instigated Nikita to commit suicide. In absence of this material being brought on record, *prima facie*, the prosecution has failed to establish the offence u/s.306 against the present applicant.

In the detail statement recorded u/s.164 of the Cr.P.C, the complainant has again made a vague allegation of demand of Rs.20 lakhs, which is bereft of further details as to the date and timings when the demand was made.

7 It is unfortunate that Nikita had to commit suicide and at that point of time, when she was on her family way. However, considering *prima facie* material compiled in the charge-sheet, since now the investigation is complete, the incarceration of the applicant is not warranted. He came to be arrested in connection with the said C.R on 10th May 2021 and awaiting his trial, in the wake of the charge-sheet filed against him, he need not remain in jail, but is entitled to be released on bail subject to the stipulation that he shall attend the proceedings of the trial as and when directed. Hence, the following order :-

ORDER

- (a) The Applicant – Roshan Tukaram Thange in connection with C.R.No.I-96/2021 registered with Kulgaon Police Station shall be released on bail on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.
- (b) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer. The Applicant should not tamper with evidence.

(c) The applicant shall mark his attendance once in every three months in the RCC Case No.828/2021 in the Court where the case has been committed.

(d) The applicant shall co-operate with the trial by attending the same regularly once the trial commences.

The Application is allowed in the aforestated terms.

SMT. BHARATI DANGRE, J