

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (BA) NO. 159 OF 2022
Alam Rahim Pale..Versus...State of Maharashtra

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Mr.S.I.Ghatte, Advocate for the applicants
Ms. Shamsi Haider, APP for respondent/State

CORAM : AVINASH G. GHAROTE, J.

DATE : 03/03/2022

- 1] Heard learned counsel for the applicant.
- 2] The applicant is accused for the offence under Sections 306 and 498-A of the IPC in Crime No.5/2022. The date of the incident is 3.12.2021. The date of the demise of the victim is 8.12.2021. The charge-sheet is yet to be filed.
- 3] Mr. Ghatte, learned counsel for the applicant submits that the marriage of the applicant and the deceased had taken place in the year 2005 and they had six children. On 3.12.2021, the deceased is said to have gone to the agricultural field and consumed some medicines, which was told by her to her daughter whereupon her brother-in-law and his wife came there and took her to the hospital, where she passed away on 8.12.2021. He submits that though the deceased was admitted in the hospital on 3.12.2021 and

passed away on 8.12.2021, no attempt was made to record the statement of the deceased. He therefore submits that the applicant cannot be held guilty for the aforesaid offence, considering the length of the marriage, absence of any complaint by the deceased or her children or by any else for the last 18 years and the applicant therefore is entitled to be released on bail.

4] Learned APP opposes the application and submits that there was a demand for dowry on part of the applicant to the deceased and on account of non-fulfillment of which the deceased had taken the fateful step and therefore, the application be rejected.

5] A perusal of the case diary indicates that there is no explanation for not recording the statement of the deceased from 3.12.2021 to 8.12.2021, a period of nearly five days. There is nothing on record to indicate that there was any opinion that the deceased was unfit, so that her statement could not have been recorded. None of the children except the elder daughter by name Rayda speaks about any demand, however, that demand cannot be related to the offence under Section 498-A of the IPC, considering the length of the marriage, that apart the demand is not for money, but for refund of the money loaned. The allegations of the other witnesses also clearly appear to be afterthought

as of now, considering which I do not see any reason to continue the further incarceration of the applicant. The application is therefore allowed.

6] The applicant be released on bail for the offence under Sections 306 and 498-A of the IPC in Crime No. 5/2022, on his furnishing PR bond in the sum of Rs.25,000/- with one solvent surety of the like amount.

The applicant shall not tamper with the prosecution evidence and shall not in any manner influence the prosecution witnesses.

The applicant shall attend the concerned Police Station on every Monday and Friday between 12.00 noon to 2.00 p.m and obtain his attendance on a separate diary from the concerned PS, till filing of the charge-sheet.

JUDGE

Rvjalit