

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

933 BAIL APPLICATION NO.823 OF 2023
WITH APPLN/2164/2023 IN BA/823/2023

DEEPAK RAJRAM NAGLOT
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. V. D. Sapkal (Senior Counsel) i/b
Mr. Gore Ravindra Vitthal.
APP for Respondent-State : Mr. K. S. Patil.
Advocate for Complainant to assist APP : Mr. P. M. Nagargoje.
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CORAM : S. G. MEHARE, J.
DATE : 30.06.2023

PER COURT :-

1. Heard the learned counsel for the applicant, learned APP for the respondent-State and learned counsel for the first informant.
2. The applicant is seeking bail in Crime No.47 of 2023, registered at Pundlik Nagar Police Station, District Aurangabad, for the offences punishable under Sections 498-A, 306, 323, 504 read with Section 34 of the IPC and Section 3 and 4 of the Dowry Prohibition Act.
3. The deceased and the applicant had a love marriage of the year 2012. The parents of the deceased were opposed to

her marriage. However, as per the allegations, they accepted their marriage after some time. The facts of the case reveal that the father of the deceased and the family of the applicant had money transactions. The applicant had also repaid the money to the first informant through his employee. In addition to this, there were allegations of the extramarital relationship of the applicant with another lady. The facts of the case reveal that a day before and on the day of the incident, the lady with whom the applicant had extramarital relationship and the deceased called him at one hotel, but he did not respond on the second day when the applicant did not respond to them, in the evening, the deceased committed suicide. In short, there were allegations of ill-treatment to the deceased for the demand of dowry and the extramarital relationship of the applicant.

4. Learned senior counsel for the applicant would submit that the allegations as regards the demand of dowry are baseless. Though her parents opposed the marriage over time, her parents accepted her, and they came close. As a result of closeness, the brother of the deceased was residing at the house of the applicant for his education. Not only this, but they also started money transactions. An immovable property was purchased in the name of the sister of the applicant and others,

and for that, there was a money transaction between the first informant and the applicant. He also pointed out that the applicant had sent some amount to the first informant through his employee. Considering the long marriage of 12 years and cordial relations, the allegations of ill-treatment for dowry to the deceased appear afterthought. As far as the offence under Section 306 is concerned, he would vehemently argued that considering the facts in toto, there is no evidence that the applicant abetted the deceased to commit suicide. The ingredients of Section 306 of the IPC are missing.

5. To bolster his arguments, he relied on the case of *K. V. Prakash Babu Vs. State of Karnataka ; AIR 2016 Supreme Court 5430* and *Anticipatory Bail Application (ST) No.3124 of 2020, decided on 21.10.2020*, by this Court at Principal Seat, wherein the ratio laid down in the case that *M. Mohan Vs. The State, represented by the Deputy Superintendent of Police (2011) 3 SCC 626* has been followed. In the case of *K. V. Prakash*, he has particularly referred to paragraphs Nos.15 and 19. In addition to thereto, he would submit that the applicant has been languishing in jail since the day of the incident. The investigation has been completed. Nothing is to be recovered

from him. There are no antecedents to his discredit. Hence, he may be granted bail.

6. Per contra, learned APP and learned counsel for the applicant have vehemently opposed the application. They would submit that the applicant did the positive act by not responding to her and a lady with whom he has extramarital relation, and thereby he aided the deceased in committing suicide. They would also submit that the victim and the family members of the applicant tried to cut the extramarital relationship. The written bond was also obtained from the said woman. However, the applicant did not break his relationship with her. The applicant was not listening, and that was the continuous high degree of mental cruelty to the deceased; therefore, she committed suicide. At the time of the suicide, she was pregnant. The offence is serious and grave. The applicant may tamper with the witnesses. Hence, his application may be rejected.

7. The facts and regards the love marriage of the applicant and deceased and close relations in the two families are not in dispute. It is also apparent that there were money transactions between the applicant and the father of the deceased. There

was a transaction of purchasing the land. It is clear from the facts that they had the money transactions. However, till the date of the incident, there were no allegations or a report against the applicant that he ill-treated the deceased for the demand of dowry. The peculiar facts of the case are that when his extramarital relationship came to light, the mother of the applicant also tried to cut their relationship. Therefore, she obtained a written bond paper from the woman who was in extramarital relationship. The statement of the said lady is expressive that she was divorced due to the relationship continued by the applicant after her marriage. Her statement reveals that it was the applicant who always used to contact and meet her. She had lodged N.C. against the applicant. The entire facts of the case reveal that this was not the first incident in which the applicant did not listen to the victim and his family to cut the relationship with the said lady. With intent to patch up or cut the relationship with the said lady, the said woman was also taken into confidence, and a day before the incident, the said woman and the deceased called the applicant someplace. But he did not respond to them, and she committed suicide. This seems to be the continuous mental torture of the deceased due to the applicant's behaviour.

8. Learned counsel for the applicant, referring to the ratio laid down in the case of *M. Mohan (supra)*, has tried to argue that non-responding to the deceased and the said woman is not a positive act on the part of the accused to instigate or aid the deceased to commit suicide. Further relying on paragraph no. 19 of the case of *K. V. Prakash (supra)*, he has vehemently argued that having an extramarital affair does not amount to an offence of abetment to commit suicide, but it is a ground for divorce or other related matrimonial disputes.

9. Referring to paragraph No.15, in which the case of **(2015) 11 SCC 753** was referred, in the last few lines of the said judgment, it was observed that “in the instant case, the accused may have been involved in an illicit relationship with the appellant No.4, but, in the absence of some other acceptable evidence on record that can establish such high degree of mental cruelty, the explanation of Section 498-A, which includes the cruelty to drive the woman to commit suicide, would not be attracted”. In the case in hand, there was evidence that time and again, the applicant was tried to convince to cut the relationship with the said lady. A bond was also obtained from her, but the applicant did not cut his relationship with her, and most importantly, one day before the

incident and on the day of the incident, both the deceased and said woman called the applicant to meet them, but he did not respond. Exactly it appears the other acceptable evidence. In paragraph No.19, it has been specifically observed that if the husband gets involved in an extramarital affair, that may not, in all circumstances, invite conviction under Section 306 of the IPC. This observation indicates that the Court has to consider the surrounding circumstances indicating that due to such a relationship, the wife suffered a high degree of mental cruelty and could not tolerate her husband's conduct. The facts of the present case are that there was a series of attempts to cut the relationship, including the meetings between the deceased and the woman having the extramarital relationship with the applicant. But, the applicant did not listen. Therefore, *prima facie* establishes a high degree of mental cruelty to the deceased, who was the lecturer in the college. After having gone through the facts of the case in hand, this Court, with due respect to the Hon'ble Supreme Court, does not agree with the learned senior counsel for the applicant that the ratio laid down in the cases relied upon by him is applicable to the case in hand.

10. Considering the *prima facie* case and the conduct of the applicant, the Court is of the view that this is not a fit case to grant bail. Hence, the bail application stands dismissed.

11. The Criminal Application No.2164 of 2023 stands allowed.

(S. G. MEHARE, J.)

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vmk/-