

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

BAIL APPLICATION NO. 2881 OF 2022

Mr. Sunilkumar Kalluprasad Gautam	 Applicant
v/s.	
The State of Maharashtra	 Respondent

Mr. Amandeep Singh Bolle i/b. Mr. Charan Penthalia for the Applicant.
Mr. H.J. Dedhia, APP for the State.
Mr. Deshpande, PSI, Shivaji Nagar Police Station, Ambernath, present.

CORAM : G.A. SANAP, J.

DATED : 18th DECEMBER, 2023.

P. C. :-

. The Applicant/accused has made this application for bail under Section 439 of the Criminal Procedure Code, in connection with C.R.No.I-375/2019 registered with Shivaji Nagar Police Station, Ambernath, Dist. Thane for the offences punishable under Sections 304-B, 306, 323, 498-A, 504 and 506 of the Indian Penal Code and Section 4 of the Dowry Prohibition Act.

2. I have heard the learned advocate for the Applicant/accused and the learned APP for the State. I have perused the record and proceedings.

3. The learned advocate for the Applicant/accused submitted that there is inordinate delay in lodging the First Information Report. The learned advocate for the Applicant further submitted that the accused has been falsely implicated in this case. The learned advocate for the Applicant/accused submitted that immediately after death of the deceased, *Sulahnama* was executed between the parties. It is pointed out that in the *Sulahnama* it is recorded that the informant had no complaint against the accused. The learned advocate for the Applicant submitted that after completion of the investigation, charge sheet has been filed. It is pointed out that as yet, charges are not framed. The learned advocate for the Applicant submitted that the trial is not likely to complete in near future and therefore incarceration of the accused for indefinite period is not warranted. The learned advocate for the Applicant submitted that this Court may impose appropriate conditions while releasing the accused on bail.

4. The learned APP for the State submitted that the accused was absconding from the date of registration of the FIR in 2019. He was finally arrested on 15/05/2022. The learned APP pointed out that when the accused came to know that the report was lodged, he absconded. The learned APP submitted that the accused is permanent

resident of Uttar Pradesh and therefore it would be very difficult to secure his presence for trial if he is released on bail. It is also submitted that the possibility of tampering with the prosecution evidence cannot be ruled out if the accused is released on bail.

5. On going through the records, it is seen that the marriage of the deceased with the Applicant/accused was solemnized on 16/02/2019. It is further seen that on 13/06/2019, the deceased committed suicide by hanging. The statement of the accused was recorded on 14/06/2019. A perusal of the order passed by the learned Sessions Judge, Kalyan would show that on the date of decision of the bail application, the investigation in the crime was in progress. The learned Sessions Judge, on the available material, while rejecting the bail application, observed that the possibility of the accused fleeing from justice could not be ruled out inasmuch as the accused is resident of the State of Uttar Pradesh.

6. The accused has been in jail for 1½ years. The charges have not been framed. The learned APP is not in a position to make candid statement as to the time that would be taken for completion of the trial. It is undisputed that there was inordinate delay in lodging the First Information Report. All the witnesses in this case are from Uttar

Pradesh. The learned advocate for the Applicant/accused submitted that the accused even if released on bail, will be staying in Thane District. It is submitted that therefore the possibility of tampering with the prosecution evidence or pressurizing the prosecution witnesses, would not arise.

7. In my considered opinion, it would be very difficult to accept the submissions advanced by the learned APP touching the merits of the case. On consideration of the material in totality, in my view, the bail cannot be denied to the accused by exercising discretion. The apprehension put forth by the learned APP can be taken care of by imposing appropriate conditions. Accordingly, the following order is passed :-

(a) The Bail Application is allowed.

(b) The Applicant - Mr. Sunilkumar Kalluprasad Gautam be released on bail in connection with C.R.No.I-375/2019 registered at Shivaji Nagar Police Station, Ambarnath, Dist. Thane on furnishing P.R. Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand) with one or two solvent sureties in the like amount.

(c) The Applicant/accused shall attend Shivaji Nagar Police Station, Ambernath, Dist. Thane on 1st day of every month between 11:00 a.m. and 02:00 p.m.

(d) The Applicant/accused shall not in any manner directly or indirectly tamper with the prosecution evidence.

(e) The Applicant/accused shall not directly or indirectly threaten, pressurize or induce the prosecution witnesses.

(f) The Applicant/accused shall after his release on bail, provide his residential address and mobile phone number to the concerned Police Station as well as to the Trial Court within a period of one week.

8. Bail Application stands disposed of in above terms.

9. It is made clear that observations made herein above be construed as an expression of opinion only for the purpose of granting bail and the same shall not in any way influence the trial in other proceedings.

PREETI
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JAYANI

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by PREETI
HEERO JAYANI
Date: 2023.12.21
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(G.A. SANAP, J.)