

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

CRIMINAL APPLICATION (BA) NO.7 OF 2023

Akshay Janardhan Gaikwad

Vs.

State of Maharashtra, PSO, PS Chikhli, Dist. Buldhana

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

Court's or Judge's orders.

Shri G.M. Kubade, Advocate for applicant.
Shri A.M. Kadukar, APP for non-applicant/State.

CORAM : ANIL L. PANSARE, J.
DATE : FEBRUARY 17, 2023.

This is an application under Section 439 of the Code of Criminal Procedure (for short "Cr.P.C.").

2. The applicant has been arrested 20.09.2022 in Crime No.789/2022 registered with Police Station, Chikhali, District Buldhana for the offence punishable under Sections 304-B, 306, 498-A of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act.

3. The law was set in motion on 20.09.2022. The father of Pooja (since deceased) has lodged FIR mentioning therein that Pooja was his daughter and was married to the applicant. The marriage was solemnized on 18.06.2022. The applicant, his brother and his parents including relatives have demanded 10 Tolas of gold. The informant could manage 5 Tolas. Pooja was harassed for not meeting the demand of 10 Tolas. The

FIR then states that Pooja had been to parental house for Rakshabandhan. At that time she had informed that the applicant is involved in extra martial affairs (the details are not disclosed). She has also stated that the applicant and his brother and parents were harassing her and have demanded ₹35,000/-. The informant states that he has paid ₹10,000/- to the mother of the applicant (and not to the applicant) and requested not to harass Pooja. The concluding paragraph of the report indicates that on 19.09.2022 the informant's daughter Pooja made phone call to her brother Narayan. She has informed Narayan that her husband i.e. applicant, his brother and his parents are quarreling with her since morning. The mother of the applicant has asked Pooja to leave the house and gave life threats to her if does not leave the house. The mother of the applicant said to Pooja that they do not want to continue the matrimonial ties with Pooja. Narayan then said to Pooja that he will meet her on the next day. However, on the next day, Pooja committed suicide.

4. The contents of the FIR indicates that the mother of the applicant has played more grievous role than the applicant. The mother, father and the brother of the applicant have been released on bail. If that be so, though the learned APP has opposed the application, there is no reason why the applicant should not be released on bail on the principles of parity.

5. The charge-sheet has been filed. The charge has not been framed. It will take time to commence and conclude the trial. On enquiry of antecedence, the learned advocate for the applicant submits that there are no criminal antecedence against the applicant. The applicant possesses immovable property. Thus, the applicant has strong roots in the locality.

6. In view of above, no fruitful purpose will be served by keeping the applicant behind the bars. The interest of the prosecution can be protected by putting the applicant to appropriate terms.

7. The observations made in this order are *prima facie* in nature and are made for deciding the present application only. The learned trial Judge shall not get influenced with the above observations.

8. Resultantly, the following order is passed.

ORDER

- (i) The application is allowed.
- (ii) Applicant-Akshay S/o Janardhan Gaikwad, be released on bail, in Crime No.789/2022 registered with Police Station, Chikhali, District Buldhana for the offence punishable under Sections 304-B, 306, 498-A of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act, on he furnishing P.R. Bond in the sum of ₹25,000/- with one solvent surety in the like amount.

(iii) The applicant shall, at the time of execution of bond, furnish his address and telephone/mobile number(s) to the Investigating Officer and the Court concerned and shall not change the same till the final disposal of the case.

(iv) The applicant shall regularly attend the court and cooperate the learned trial Court to complete the trial for the above offences. The applicant shall not seek adjournments, except under extreme circumstances to the satisfaction of the trial Court.

(v) The applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or any Police Officer.

(vi) The applicant shall maintain law and order.

(vii) In case of breach of any conditions, the learned trial court is at liberty to cancel the bail after giving opportunity of hearing to both the sides.

JUDGE

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