



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

938 BAIL APPLICATION NO. 2342 OF 2023

SHARAD S/O DNYANDEO GHANGHAV
VERSUS
THE STATE OF MAHARASHTRA

...

Advocate for Applicant : Mr. Nilesh S. Ghanekar.

APP for Respondent/State : Mrs. Pratibha J. Bharad.

...

AND

CRIMINAL APPLICATION NO. 137 OF 2024
IN BA/2342/2023

SANJAY VITTHAL BHAVAR
VERSUS
SHARAD S/O DNYANDEO GHANGHAV AND ANOTHER

...

Advocate for Applicant/Informant : Mr. Vaibhav B. Kulkarni.

APP for Respondent/State : Mrs. Pratibha J. Bharad.

...

CORAM : **SANJAY A. DESHMUKH, J.**

DATE : 17th January, 2024.

P.C.:

1 Heard.

2 The criminal application is filed to assist the Public
Prosecutor. For the reasons given in the application, the same is
allowed.

3 This is bail application, under Section 439 of the Code of

Criminal Procedure, 1973, for grant of regular bail in connection with Crime No.358 of 2023, registered with Badnapur Police Station, District Jalna, for the offences punishable under Sections 304-B and 306 read with 34 of the Indian Penal Code and under Sections 3 and 4 of Dowry Prohibition Act.

4 It is averred in the report that marriage of sister of informant (Sharda) was performed on 4th May, 2017. The dowry amount of Rs.4,00,000/- was settled. Out of which Rs.2,00,000/- were paid at the time of marriage. The remaining amount of dowry was not paid because of Corona-19 period. The applicant and co-accused were harassing Sharda for that amount of dowry. She begotten two daughters. The applicant and co-accused again started to harass her by saying that she will not give birth to male child. Therefore, she was under mental pressure. The informant treated Sharda for mental illness. After she recovered from that mental illness, she was sent back for cohabitation with the applicant. That time, the informant convinced the applicant and co-accused that he will pay the remaining dowry amount. When he made phone call to Sharda, four days before the incident, she told him that the applicant and her in-laws are saying her that because of two times cesarean, she is not able to beget male child. They threatened that they will perform second wife of the applicant. On 26th August, 2023, Sharda committed suicide in the river

alongwith her two daughters. The report was lodged on 27th August, 2023.

5 The learned counsel for applicant submitted that Sharda was suffering from mental illness. There is no such concrete evidence of demand of dowry on particular day. The learned counsel for applicant further pointed out the statements of witnesses and submitted that some of the relatives of the victim/Sharda have stated that there was demand of dowry and therefore, she committed suicide. He further pointed out the evidence of a witness of the village of applicant. He stated that he never noticed any such harassment for dowry or alleged cruelty. The learned counsel for applicant submitted that charge-sheet is filed. Trial will take long period. The applicant has roots in the society. He will not flee away from trial. It is lastly prayed to allow the application.

6 The learned APP for the State and the learned counsel representing the informant strongly opposed the application. They both pointed out the statements of witnesses, particularly the report. It is pointed out that soon before the day when the informant went to meet Sharda to the house of the applicant, he tried to convince the applicant and co-accused that remaining amount of dowry will be paid later on. It is lastly submitted that considering the cogent and reliable

prima-facie evidence against the applicant and serious nature of the crime that not only Sharda but also her two daughters are victim of this crime, the application deserves to be rejected.

7 Perused the charge-sheet, particularly the report and statements of witnesses. Without entering into the merits of this case, considering the nature of the crime, the minimum and maximum punishment prescribed for the offence punishable under Section 304-B of IPC and other sections invoked against this applicant, as well as, the fact that charge-sheet is filed and trial will take long period, the applicant has roots in the society and he will not flee away from trial, the application deserves to be allowed on certain conditions. Hence, the following order:-

ORDER

- I. The application is allowed.
- II. The applicant in connection with Crime No.358 of 2023, registered with Badnapur Police Station, District Jalna, for the offences punishable under Sections 304-B and 306 read with 34 of the Indian Penal Code and under Sections 3 and 4 of Dowry Prohibition Act, be released on bail on furnishing personal bond of Rs.50,000/- with surety of the like amount on following conditions:-
 - a) The applicant shall not pressurize the witnesses.

- b) The applicant shall not tamper with the prosecution evidence, in any manner.
- c) The applicant shall not indulge in similar activities again.

[SANJAY A. DESHMUKH, J.]

nga