

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

BAIL APPLICATION NO. 736 OF 2024

Shivaji Mahadev Rathod

.Applicant

Versus

The State of Maharashtra

.Respondent

Mr. Vikram V. Phatate, Advocate, for the Applicant
Ms. Supriya N. Kak, APP, for the Respondent – State

CORAM: MADHAV J. JAMDAR, J.

DATE: 22.02.2024

P. C.

1. Heard Mr. Phatate, learned Counsel appearing for the Applicant and Ms. Kak, learned APP appearing for the Respondent-State.

2. This regular Bail Application is preferred under Section 439 of the *Code of Criminal Procedure, 1973*. The relevant details are as follows:-

1.	C. R. No.	669 of 2023
2.	Date of Registration of F.I.R.	07.11.2023
3.	Name of Police Station	Solapur Taluka Police Station
4.	Sections invoked	304B, 323, 504 & 506 of the IPC, 1860
5.	Date of Incident	23.06.2023 to 02.11.2023
6.	Date of Arrest	07.11.2023
7.	Date of filing of Charge-sheet	29.12.2023

3. The deceased was the wife of the Applicant. As per the prosecution case, the Applicant was harassing the deceased for various reasons including a demand to bring money from her parents for purchasing a vehicle. The Applicant continued harassing and assaulting the deceased due to which the deceased died by suicide on 02.11.2023.

4. Mr. Phatate, learned Counsel appearing for the Applicant submitted that F.I.R. as well as material on record do not show that there was continuous harassment which is a requirement under Section 304B as well as of Section 506. He further submitted that in any case, Charge-sheet has been filed and investigation is complete. The trial is likely to take a considerably long time. Therefore, the Applicant be released on bail.

5. On the other hand, Ms. Kak, learned APP appearing for the Respondent - State vehemently opposed the Bail Application. She pointed out Section 113B of the *Indian Evidence Act, 1872* and that the incident has taken place within seven years of marriage, and that there is a presumption in law against innocence of the Applicant. She further submitted that the statements of various witnesses show that the Applicant is involved in the crime. A perusal of the record shows that the deceased died by suicide on 02.11.2023, F.I.R. has been lodged on

07.11.2023, the Applicant was apprehended on 07.11.2023 and Charge-sheet has been filed on 29.12.2023. Investigation is complete. As per the Charge-sheet, 17 witnesses are proposed to be examined by the prosecution. The trial is likely to take a considerably long time.

6. The Applicant does not have any criminal antecedents.
7. The Applicant does not appear to be at risk of flight.
8. Accordingly, the Applicant can be enlarged on bail by imposing conditions.
9. In view thereof, the following order:-

ORDER

- (a) The Applicant - Shivaji Mahadev Rathod be released on bail in connection with C. R. No.669 of 2023 registered with the Solapur Taluka Police Station, on his furnishing P. R. Bond of Rs.25,000/- with one or two solvent sureties in the like amount.
- (b) On being released on bail, the Applicant shall furnish his cell phone number and residential address to the Investigating Officer and shall keep the same updated, in case of any change thereto.
- (c) The Applicant shall report to the Solapur Taluka Police Station, once a month on the first Sunday between 11.00

a.m. and 1.00 p.m. until the conclusion of the trial.

- (d) The Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade such a person from disclosing the facts to the Court or to any Police personnel.
- (e) The Applicant shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any witness in any manner.
- (f) The Applicant shall attend the trial regularly. The Applicant shall co-operate with the Trial Court and shall not seek unnecessary adjournments thereat.
- (g) The Applicant shall surrender his passport, if any, to the Investigating Officer.

10. The Bail Application is disposed of accordingly.

11. It is clarified that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, uninfluenced by the observations made in this order.

[MADHAV J. JAMDAR, J.]