

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 1690 OF 2023

SANTOSH
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KULKARNI

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Date: 2024.01.18
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Samadhan Sanjay Mahajan ...Applicant
Versus
State of Maharashtra ...Respondent

Mr. Sunil Pandey, a/w Raju Mandal, for the Applicant.
Mr. S. R. Aagarkar, APP for the State/Respondent.
PSI Santosh Shinde, Narpoli Police Station, Bhiwandi,
present.

CORAM: N. J. JAMADAR, J.
DATED: 17th JANUARY, 2024

ORDER:-

1. Heard the learned Counsel for the parties.
2. By this application under Section 439 of the Code of Criminal Procedure, 1973 ("the Code") the applicant seeks to be enlarged on bail in CR No.814 of 2022 registered with Narpoli Police Station, Bhiwandi, for the offences punishable under Sections 306 and 498A of the Indian Penal Code, 1860 ("the Penal Code").
3. Vijaya (the deceased), was the daughter of the first informant. The deceased had solemnized marriage with the applicant on 16th November, 2022 against the desire of the

first informant and his family members. The deceased died by suicide on 29th December, 2022.

4. The first informant alleged that the deceased had informed him that the applicant was subjecting her to cruelty in order to coerce her to bring money from her parents. The applicant had also allegedly asked the deceased to get her share in the property of the first informant. Thus, the first informant lodged report of the applicant having subjected the deceased to cruelty and abetted the deceased to commit suicide.

5. The learned Counsel for the applicant submitted that the first informant was against the marriage of the applicant with the deceased. A proceeding was also lodged by the first informant before the Judicial Magistrate, First Class, Bhadgaon, for getting the custody of the deceased. In fact, on account of the hostile approach of the first informant and the family members to the martial relationship between the deceased and the applicant, the deceased died by suicide. The applicant is in custody since December, 2022.

6. The learned APP resisted the prayer for bail.

7. I have perused the report under Section 173 of the Code and the documents annexed with it. From the allegations in

the FIR, it becomes evident that the deceased died under one and half month of the marriage. The report further indicates that the first informant had instituted a proceeding before the learned JMFC, Bhadgaon, for the custody of the deceased. *Prima facie* it appears that on account of the decision of the deceased to marry the applicant, her relations with the first informant and his family members were strained. In the circumstances, whether there was any direct or proximate act or omission on the part of the applicant which constituted instigation or an intentional aid to commit suicide, would be a matter for adjudication at the trial.

8. Investigation is complete. Charge-sheet has been lodged. The applicant is in custody for more than a year. The applicant seems to have roots in the society. Thus further detention of the applicant does not seem to be warranted. I am, therefore, persuaded to exercise the discretion in favour of the applicant.

9. Hence the following order:

: O R D E R :

- (i) Application stands allowed.
- (ii) The applicant Samadhan Sanjay Mahajan be released on bail in CR No.814 of 2022 registered with Narpoli

Police Station, Bhiwandi, on furnishing a P.R. Bond of Rs. 30,000/- with one or more sureties in the like amount and furnish cash security for the period of six weeks, to the satisfaction of the learned Magistrate.

- (iii) The applicant shall mark his presence at the concerned police station on the first Monday of every alternate month in between 10.00 am. to 12.00 noon for the period of three years or till conclusion of the trial, whichever is earlier.
- (iv) The applicant shall not tamper with the prosecution evidence. 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 him from disclosing the facts to Court or any police officer.
- (v) On being released on bail, the applicant shall furnish his contact number and residential address to the investigating officer and shall keep him updated, in case there is any change.
- (vi) The applicant shall regularly attend the proceedings before the jurisdictional Court.
- (vii) By way of abundant caution, it is clarified that the

observations made hereinabove are confined for the purpose of determination of the entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant and the trial Court shall not be influenced by any of the observations made hereinabove.

Application stands disposed.

[N. J. JAMADAR, J.]