

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

BAIL APPLICATION NO. 3683 OF 2024

Nizamuddin Shamshuddin Shaikh	...	Applicant
Versus		
The State of Maharashtra	...	Respondent

Mr. Sunil Pandey a/w Mr. Raju Mandal i/by Priyanshu Mishra for the Applicant.

Mr. Balraj B. Kulkarni, APP for Respondent-State.

**CORAM: MANISH PITALE, J.
DATE : 1st OCTOBER 2024**

P.C. :

1. Heard learned counsel for the applicant and learned APP for the respondent-State.

2. The applicant is seeking bail as he was arrested on 30th May 2024 in connection with FIR No. 65 of 2021 dated 15th March 2021, registered at Meghwadi Police Station, Mumbai, for offences under Sections 306, 498-A, 323, 504 and 506 read with 34 of the Indian Penal Code, 1860 (IPC).

3. The informant in the present case is the mother of the deceased. She has stated that after her daughter i.e. the victim got married and joined the matrimonial house, the applicant i.e. her husband and her in-laws harassed her to the extent that she was forced to take the extreme step of committing suicide.

4. The learned counsel for the applicant submits that all the other accused persons, who are members of his family, have been granted bail. It is submitted that the applicant was working in Kuwait, during the relevant period when allegations of harassment have been levelled against the accused persons. It is submitted that the only allegation appears to be that the applicant used to make phone calls from Kuwait and he used to harass his wife i.e. the victim. It is further submitted that when the applicant returned to India on 30th May 2024, he was arrested from the Airport itself, as a lookout circular had been issued.

5. It is submitted that no purpose would be served by keeping the applicant further in judicial custody, particularly when there is no material to show any overt act on the part of the applicant soon before the incident, which is a necessary ingredient of the offence under Section 306 of the IPC. It is submitted that the applicant is suffering from gangrene in his foot and this is an additional ground for seeking relief from this Court.

6. On the other hand, the learned APP submits that the informant has chronologically given details about the manner in which the accused persons, including the applicant, were harassing the victim. Ingredients of the offences are clearly made out and since the applicant was absconding for long period of time and he could be arrested only on 13th May 2024, no indulgence can be shown to the applicant.

7. This Court has perused the statement of the informant, leading to registration of the FIR. In the aforesaid statement itself it was indicated that in the year 2018, the applicant had left for Kuwait for work. It appears that his wife i.e. the victim was residing with the in-laws in India, while the applicant was working abroad. It is for this reason that in the statement itself, the informant has repeatedly stated that the applicant used to make phone calls and he used to threaten and harass the victim.

8. Even if the allegations levelled against the applicant are taken on face value, at worst, it can be said that he was indulging in issuing threats on phone over a period of time. There is no specific allegation of physical assault or harassment at the hands of the applicant. It is also relevant to note that while general statement is made about harassment meted out on phone, there is no reference to a specific overt act on the part of the applicant soon before the actual act of suicide of the victim. *Prima facie*, the essential ingredients of the offence under Section 306 of the IPC are not made out against the applicant.

9. In any case, he has suffered incarceration for about 5 months and no fruitful purpose would be served by continuing his judicial custody. The trial would take its own time for completion and in the meanwhile, the applicant would be languishing in jail. His health condition is also brought to the notice of this Court and it is found that he is suffering from gangrene in his foot, which is another reason while this Court is inclined to allow the present

application.

10. In view of the above, the application is allowed in the following terms:

- (a) The applicant shall be released on bail in connection with FIR No.65 of 2021 dated 15th March 2021, registered at Meghwadi Police Station, Mumbai, on furnishing P.R. Bond of Rs.50,000/- and one or two sureties in the like amount to the satisfaction of the trial Court.
- (b) The applicant shall cooperate with the trial Court for expeditious completion of the trial and he shall attend each and every date, unless exempted by the trial Court, for reasons to be recorded in writing.
- (c) The applicant shall surrender his original passport before the trial Court, within one week, upon being released on bail.
- (d) The applicant shall not tamper with the evidence of the prosecution and he shall not influence the informant, witnesses or any other person concerned with the case.
- (e) The applicant, upon being released on bail, shall place on record of the trial Court the details of his Contact

Number and residential address with updates in case of any change.

11. Needless to say, in case of violation of any of the aforesaid conditions, the bail granted to the applicant shall be liable to be cancelled. It is also clarified that the observations made in this order are limited to the disposal of the present bail application. The concerned Court shall proceed further in the matter without being influenced by the observations made hereinabove.

12. The application is disposed of.

13. At this stage, the learned counsel for the applicant prays for cash security till the surety is furnished.

14. The applicant is permitted to furnish cash security of Rs.50,000/- for a period of six weeks.

MANISH PITALE, J.