

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

**INTERIM APPLICATION NO.1424 OF 2024
IN
CRIMINAL APPEAL NO.354 OF 2024**

Pramod Dattatray Bhoir Applicant

versus

State of Maharashtra & Anr. Respondents

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- Ms. Prabha Badadare, Advocate for Applicant.
- Mr. Swapnil V. Walve, APP for the State/Respondent.
- Mr. Vinayak B. Gadekar i/b. Nikhil Shejwal, Advocate for Respondent No.2.

**CORAM : SARANG V. KOTWAL, J.
DATE : 24th SEPTEMBER, 2024**

P.C. :

1. This is an application for bail pending Appeal. The Applicant was one of the four accused in Sessions Case No.63/2023 before the Additional Session Judge, Belapur. The learned Judge vide the Judgment and Order dated 19/03/2024 convicted the Applicant for commission of offence punishable u/s 304 B, 306, 498-A of the Indian Penal Code.

- (i) He was sentenced to suffer rigorous imprisonment for 7 years for the offence punishable u/s 304 B of the Indian Penal Code.
- (ii) He was sentenced to suffer rigorous imprisonment for 7 years and to pay a fine of Rs.5,000/- for the offence punishable u/s 306 of the Indian Penal Code and in default of payment of fine to suffer rigorous imprisonment for three months.
- (iii) He was sentenced to suffer rigorous imprisonment for 3 years and to pay a fine of Rs.2,500/- for commission of offence punishable u/s 498-A of the Indian Penal Code and in default of payment of fine to suffer rigorous imprisonment for one month.

2. Heard Ms. Prabha Badadare, learned counsel for the Applicant, Mr. Vinayak B. Gadekar, learned counsel for the Respondent No.2 and Mr. Swapnil V. Walve, learned APP for the State.

3. The prosecution case is that the Applicant got married with the deceased on 03/06/2013. She committed suicide by

hanging herself on 05/11/2013 in her matrimonial house. Her brother lodged the FIR on the allegations that the Applicant had demanded Rs.25 lakhs for repairs of their house and for repayment of loan. It is alleged that because of his demand, she was harassed which led her to commit suicide.

4. Learned counsel for the Applicant submitted that the allegations against the Applicant are vague. The demand made by him cannot form part of dowry as is held by the Hon'ble Supreme Court in the case of *Modinsab Kasimsab Kanchagar Vs. State of Karnataka & Anr.* as reported in *(2013)4 Supreme Court Cases 551*. She submitted that the Applicant is made accused only because of the suspicion expressed by the brothers and sister of the deceased.

5. Learned counsel submitted that the Applicant was on bail during trial and he has not misused that liberty. He is in custody since March 2024 and thus about 6 months out of the sentence of 7 years have passed. The Appeal is not likely to be decided within a reasonably short period.

6. Learned APP as well as learned counsel for the Respondent No.2 opposed these submissions. They submitted that the allegations are serious. The deceased had committed suicide within 5 months of the marriage and therefore the presumption operates against the Applicant.
7. Learned counsel for the Applicant in response submitted that the prosecution has not proved basic ingredients of the offence. Therefore, the presumption will not be attracted.
8. I have considered these submissions. The Hon'ble Supreme Court, in the aforementioned judgment of ***Modinsab Kanchagar*** had observed that the demand was made for repayment of loan and it was not in connection with dowry. Therefore, the offence u/s 304-B of the IPC is not attracted, but the Appellant in that case was liable u/s 498-A of the IPC. The impact of that case on the facts of the present case will have to be considered at the final hearing stage. The issues raised by

both the parties will have to be ultimately considered and decided at the final hearing stage. The Applicant is in custody for more than 6 months out of the sentence of 7 years. He was on bail during trial.

9. There are depositions of the victim's two brothers and the sister which are identical. They are P.W.1, P.W.2 and P.W.3. They had stated that after about 1 and ½ months of the marriage, the Applicant had demanded Rs.25 lakhs for repairs of the house and for repayment of loan. After 10 days, the deceased came to P.W.1 and asked him as to why money was not arranged. She informed that all the accused were beating her. On 22/09/2013, the Applicant had gone to P.W.1's house. At that time, P.W.1 had given a cheque of Rs.1 lakh in the name of his father. After that also, the deceased had come to P.W.1's house and complained that she was asked to leave the house because the demand was not fulfilled. On 02/11/2013 also, the Applicant had demanded money.

10. All these allegations will have to be considered at final hearing stage. The Applicant was on bail during trial. The incident is from the year 2013. Almost more than 10 years have passed. There are no allegations that the Applicant has committed any other offence. The Appeal is not likely to be decided within a reasonably short period. Therefore, on these grounds, the Applicant can be granted bail during the pendency of his Appeal.

11. Hence, the following order :

ORDER

- (i) During the pendency and final disposal of the Criminal Appeal No.354 of 2024, the Applicant is directed to be released on bail on his furnishing P.R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand only), with one or two sureties in the like amount.
- (ii) Interim Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)