



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (BA) NO.700 OF 2024

(Premsing @ Pravin s/o Tukaram Jadhav Vs. The State of Maharashtra)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. K.S. Narwade, Advocate for the applicant.
Mr. U.R. Phasate, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- AUGUST 21, 2024.

By this application, the applicant is seeking bail as he came to be arrested on 08/04/2024 in connection with Crime No.114/2024 registered with Police Station Khandala, District Yavatmal, for the offence punishable under Section 306 read with Section 34 of the Indian Penal Code.

2. The crime is registered on the basis of report lodged by the father of the deceased on an allegation that deceased is his elder daughter whose marriage was performed with the present applicant prior to 10 years. From the said wedlock she given birth to two daughters and one son. It is alleged that after marriage, deceased resumed the cohabitation at the matrimonial house. She was treated well for four to six months initially and subsequently, she was ill-treated for demand of Rs.50,000/- and on that count she was abused and assaulted. On 07/04/2024, when the informant was at Pune he received a phone call of her daughter who disclosed that she is assaulted by the present applicant

and requested him to take her back. At about 5.00 PM on the same day he received the message that his daughter found dead in a Well. It is alleged that as she was ill-treated continuously being fed up with the same she jumped into the Well and committed suicide. On the basis of said report, police have registered the crime against the present applicant.

3. Learned Counsel for the applicant submitted that the marriage was performed prior to 10 years. There was no previous complaints as to the ill-treatment or the harassment at the hands of the present applicant.

4. Present applicant and deceased had three children from their wedlock and they were staying along with the deceased and the present applicant. Except the statements of the relatives of the deceased there are no independent statements to substantiate the contention that she was continuously ill-treated and harassed, and therefore, she being fed up with the same, committed suicide. He further submitted that now investigation is completed and charge-sheet is filed, further incarceration of the present applicant is not required. In view of that, he be released on bail.

5. Learned APP strongly opposed the application on the ground that the injuries are found on the person of the deceased while conducting the postmortem which substantiates the allegation that she was harassed to the extent that there was no alternate for her but to commit

suicide, and therefore, she committed suicide. The statements of the witnesses shows that she was continuously harassed by the present applicant, and therefore, she committed suicide. Considering the *prima facie* case is made out against the present applicant, the application deserves to be rejected.

6. I have heard learned Counsel for both the parties. Perused the recitals of the FIR. Admittedly, the marriage between the deceased and the present applicant performed prior to the 10 years, and therefore, the presumption is not attributed. They had 3 children from their wedlock. Undisputedly, there was no previous complaint lodged either by the deceased or by her relatives as to the harassment at the hands of the present applicant or the other in-laws are concerned. But the statement of the witnesses shows that she was harassed since her marriage, for the demand of Rs.50,000/- and being fed up with the same she has committed suicide. At this stage, it is not necessary to evaluate the evidence but considering the submission made by the learned APP that the injuries found on the person of the deceased but the Medical Officer has not opined that whether these injuries are ante-mortem or post-mortem. Thus, the possibility that injuries may have caused at the time of the incident cannot be ruled out. As far as the abetment part is concerned, there is allegation that on the demand of Rs.50,000/- she was harassed, and therefore, she committed suicide.

7. Section 107 of the Indian Penal Code deals with the Abetment of a thing which shows that A person abets the doing of a thing, who instigates any person to do that thing; or engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or intentionally aids, by any act or illegal omission, the doing of that thing.

8. Section 306 of the IPC has been analyzed time and again by the Hon'ble Apex Court. The Hon'ble Apex Court in the case of *Shabbir Hussain vs The State Of Madhya Pradesh [(2021) 17 SCC 807]* has observed that in order to bring a case within the provision of Section 306 IPC, there must be a case of suicide and in the commission of the said offence, the person who is said to have abetted the commission of suicide must have played an active role by an act of instigating or by doing a certain act to facilitate the commission of suicide. The Hon'ble Apex Court further goes on to observe that mere harassment without any positive action on the part of the accused proximate to the time of occurrence which led to the suicide would not amount to an offence under Section 306 of the IPC. Whether it was a mere harassment or part of the accused was proximate to the time of the occurrence is a matter of evidence. At this stage, considering the investigation is completed and charge-sheet is filed, further incarceration of the present applicant

is not required. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass the following order :

- (i) The application is allowed.
- (ii) The applicant - Premsing @ Pravin s/o Tukaram Jadhav shall be released on bail in connection with Crime No.114/2024 registered with Police Station Khandala, District Yavatmal, for the offence punishable under Section 306 read with Section 34 of the Indian Penal Code, on executing PR bond of Rs.25,000/- with one surety in the like amount.
- (iii) The applicant shall not enter into the vicinity of Vasantwadi, Taluka Pusad, District Yavatmal, till the culmination of the trial.
- (iv) The applicant shall not induce, threat or promise any witnesses in any manner who are acquainted with the facts of the case.
- (v) The applicant shall attend the proceedings before the Sessions Court without seeking any exemption unless there are exceptional circumstances.

9. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)