



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (BA) NO. 1133/2023

Devidas Dalpatrao Kawale (in jail) Vs 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. D.S. Khushalani, counsel for the applicant.

Mr. A.R.Chutke, APP for the non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 22/01/2024.

1. The present application is filed by the applicant for grant of bail, in connection with Crime No.475/2023 registered with Police Station Chandur Bazar, District Amravati, for the offences punishable under Sections 302, 498-A read with Section 34 of the Indian Penal Code, 1860. The applicant came to be arrested on 17/07/2023.

2. The FIR is registered on the basis of report lodged by brother of the deceased namely Akshay Dyandeorao Pawar, on an allegation that the marriage of his sister namely deceased Maya, whose marriage was performed with the co-accused Amol Devidas Kawade on 16/04/2019. After the marriage, she resumed cohabitation at the house of the present applicant and his son. Thereafter, she was ill-treated by the present applicant and other co-accused on various reasons. Therefore, she constrained to leave matrimonial house and criminal proceedings were filed before the appropriate Courts. During the pendency of the proceedings, the present

applicant and other co-accused gave an undertaking that they will treat the deceased and took her for cohabitation. However, she was not treated well. On 15/07/2023 deceased called her mother and narrated about the ill-treatment at the hands of the present applicant. On the day of incident also, on 15/07/2023, the deceased was assaulted by the present applicant and other co-accused and other co-accused strangled her which resulted into her elimination, on the basis of report, the police have registered the crime against the present applicant.

3. Learned counsel for the applicant submitted that as far as the allegation against him is concerned, which are general in nature. Now, the investigation is completed and charge-sheet is filed, further incarceration of the present applicant is not required. The applicant aged about 60 years, if he has kept behind the bar, his health will be deteriorated and prays for releasing him on bail.

4. Per contra, learned APP strongly opposed the present application on the ground that death of the deceased is caused due to the strangulation in the matrimonial house, wherein she was residing along with the present applicant and other co-accused.

5. He further invited my attention towards the statement of the son of the deceased, who specifically stated that the deceased was assaulted by the present applicant as well as other co-accused, and co-accused who is the mother-in-law, strangled the neck of the

deceased and she succumbed to death. Thus, he submitted that there is a prima-facie material against the present applicant to connect him with the alleged offence. In view of that, criminal application deserves to be rejected.

6. Having heard learned counsel for the applicant and learned APP for the State, perused the investigation papers. There is no dispute as to the fact that death of the deceased is caused in the matrimonial house within seven years of marriage in a suspicious circumstances. There is specific allegations against the present applicant as well as the co-accused regarding the ill-treatment at their hands.

7. As far as the incident is concerned, the allegation is made on the basis of statement of son of the deceased. If the statement of the son of the deceased is considered and in the light of the PM Report, no injuries are found on the person of the deceased, except the ligature mark over anterior aspect of a neck, moving upward and backward posteriorly 33 cm. The said injury is attributed to the mother in law of the deceased. Though son of the deceased has alleged that the present applicant has also assaulted the deceased on the day of incident, but it is not supported by the PM report. Except the ligature mark, no other injury is found on the person of the deceased. Now, considering the investigation is completed and charge-sheet is filed and the role attributed to the present, he can be released on bail by imposing certain condition. Accordingly, I proceed to pass following order.

- a) The criminal application is allowed.
- b) The applicant-Devidas Dalpatrao Kawale is released on bail in connection with crime No. 475/2023 registered with Police Station Chandur Bazar, District Amravati, for the offences punishable under Sections 302, 498-A read with Section 34 of the Indian Penal Code, 1860, on executing P.R. bond of Rs. 25,000/- with one solvent surety in the like amount.
- c) The applicant shall not induce, threat or promise to any witnesses who are acquainted with the facts of the present case.
- d) The applicant shall furnish his cell phone number (s) and address with address proof

The criminal application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]