



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

912 CRIMINAL APPEAL NO. 460 OF 2025

IBRAHIM ALIAS IBYA HUSEN SHAIKH

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

Mr.S.V. Gundre, Advocate for the appellant.

Mr.M.N.Ghanekar, APP for the respondent-State.

Mr.A.S. Wakode, Advocate for respondent No.2.

CORAM : KISHORE C. SANT, J.

DATE : 24.07.2025

PC :-

01. Heard learned Advocate for the appellant, learned APP for the respondent-State and learned Advocate for respondent No.2.

02. The appellant has approached this Court seeking regular bail in connection with offence bearing Crime No. 125 of 2025, registered with Latur (Rural) Police Station for the offences punishable under sections 108 of the Bhartiya Nyay Sanhita, 2023 and under section 3(2) (va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. His bail application is rejected by the Trial Court by way of the impugned order dated 18.06.2025 and thus the appellant has approached this Court.

03. The prosecution case is that deceased Rutuja was having

relation with the present appellant. The appellant promised her to marry and maintained affair for two years. However, thereafter, his marriage was settled with some other girl. On that, the victim asked him about the marriage with her. On that the appellant started avoiding the victim and also started harassing her. On 25.05.2025, there was marriage of present appellant at 10.35 a.m. On the said date, the deceased committed suicide. The mother of the deceased, therefore, lodged FIR. The deceased had also written suicide note. From the suicide note, it is seen that she committed suicide only because of the fact that inspite of promise to marry, the appellant married to some other girl.

04. Learned Advocate for the appellant vehemently argued that merely marrying some other person is not an act of abetment. Some positive act is required for attracting the ingredients of abetment. In the present case the appellant merely refused to marry the deceased and thus it cannot be said to be an abetment.

05. Learned Advocate for the appellant is relying on the judgment in the case of **Kamaruddin Dasgagir Sanadi Vs. State of Karnataka through Sho Kakati Police, reported in AIROnline 2024 SC 819**. In the said case, the Hon'ble Apex Court held that merely

because the accused refused to marry cannot be said to be an offence of abetment. In that case the Hon'ble Apex Court, after trial, found that there was no relationship between the accused and the deceased, who committed suicide. There was no physical relationship. There was no sexual intercourse with the deceased under the pretext of marriage. In that case from the dying declaration it was shown that the deceased was in love with the accused and it is the deceased who wanted to marry. There is nothing to show that there was love from both the sides.

06. After hearing the parties, this Court finds that in the present case it appears that the affair was from both the sides. The matter is still at the stage of investigation as charge-sheet is not yet filed. From the FIR it does appear that the accused had promised her to marry and it is thereafter he started avoiding and even to contact her. So far as Hon'ble Apex Court's judgment in the case of **Kamaruddin (supra)** is concerned, it is after trial the proceeding had reached to the Apex Court. In the present case, it is yet to be confirmed that whether love affair was from both the sides. From the allegations it is taken that the affair is from the both the sides. The judgment relied upon by the appellant would not help him at the stage of release on bail. This Court is not inclined to allow this appeal at this stage.

07. This Criminal Appeal is dismissed.

08. The appellant is at liberty to apply for bail after charge-sheet is filed.

[KISHORE C. SANT, J.]