

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

BAIL APPLICATION NO.4411 OF 2024.

Samadhan Bhikaji Dhage

...Applicant

Vs

The State of Maharashtra

...Respondent

Mr. Akshay Bankapur for the Applicant.

Mr. A. S. Patil, APP for the Respondent-State.

Mr. S. E. Netawale, PSI, Dindori Police Station.

CORAM: MANISH PITALE, J.

DATE : 14th JANUARY, 2025.

P. C. :

1. Heard learned counsel for the applicant and learned APP for respondent State.
2. Applicant is seeking bail as he was arrested on 1/9/2024 in connection with FIR No.0344 of 2024 dated 1/9/2024 registered at Dindori Police Station, Dist Nashik, for offences under Sections 85, 108, 80(1), 3(5), 115(2) and 352 of the Bharatiya Nyaya Sanhita, 2023 (for short, BNS)
3. There are two accused persons in the present case, the other being the mother of the applicant. By order dated 26/9/2024 this Court granted anticipatory bail to the co-accused person in Anticipatory Bail Application No.2617/2024.

4. At the outset learned APP informed this Court that investigation has been completed and charge-sheet has been filed.
5. Learned counsel for the applicant submitted that copy of the charge-sheet is available and that he had instructions to press the prayer for bail before this Court. In that light copy of charge-sheet was tendered and a copy thereof was also furnished to the learned APP.
6. Learned counsel for the applicant referred to various documents including statements of witnesses recorded during the course of investigation that form part of the charge-sheet and he submitted that even if the aforesaid material is to be taken into account, it cannot be said that actions attributed to the applicant were undertaken with the intention to instigate the victim i. e. wife of the applicant to commit suicide. In the facts and circumstances of the case it can only be said that offence may come under Section 85 of the BNS pertaining to cruelty towards wife, which is punishable with imprisonment for 3 years. It is further submitted that the the investigation having been completed no purpose would be served by continuing the judicial custody of the applicant.
7. Learned APP on the other hand relied upon the material filed along with charge-sheet to submit that the demand of dowry and the continuous harassment meted out by the applicant has been described in the statements of some of the witnesses and it could be said that a

situation was created where the victim was forced to take extreme step to commit suicide.

8. This Court has considered the material on record. The offence under Section 108 of BNS pertains to abetment of suicide and Section 45 of BNS defines abetment. It requires a person to instigate another to do a particular thing to constitute abetment.

9. This Court has perused the statements of witnesses recorded during course of investigation, including those given by some of the neighbours. At least two witnesses, who are neighbours, have specifically stated that they have never heard any commotion or quarrels between the applicant and his wife. This *prima facie* belies the allegation made by the first informant that there were frequent quarrels between the applicant and his wife, amongst other things, on the basis that the applicant was having an extramarital affair.

10. Perusal of the statement of the first informant indicates that general allegations of harassment are made against the applicant. There is absence of specific time line with regard to demand of amounts from the deceased victim. There is also absence of material to indicate any incident soon before the suicide to support the theory of the Investigating Authority that ingredients of offence under Section 108 are made out.

11. The aforesaid material *prima facie* falls short of offence described as dowry death in Section 80(1) of BNS.

12. Although it is an extremely unfortunate incident where the lady committed suicide and in the process also took along with her, the 4 years old son, considering the fact that the material brought on record along with the charge-sheet appears to fall short of making out a strong *prima facie* case against the applicant, this Court is inclined to grant relief to the present applicant.

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

(A) The applicant shall be released on bail in connection with F.I.R. No.0344 of 2024 dated 1/9/2024, registered at Dindori Police Station, District- Nashik , on furnishing P.R. Bond of Rs.50,000/- and one or two sureties in the like amount;

(B) The applicant shall not tamper with the evidence of the prosecution. He shall not influence the informant, witnesses or any other person concerned with the case;

(C) The applicant shall co-operate with the proceedings before the trial Court and he shall attend each and every date, unless specifically exempted by the trial Court;

(E) Upon release, within one week, the applicant shall inform the Investigating Officer as well as the Trial Court about his

contact number and residential address and update the same in case of any change.

14. Needless to say, violation of any of the aforesaid conditions would make the applicant liable to face proceedings for cancellation of bail. It is also clarified that the observations made in this order are limited to the question of grant of bail to the applicant in the present application and that the trial Court shall proceed further, without being influenced by the observations made in this order.

15. The application is disposed of.

[MANISH PITALE, J.]