



CNR : MHSN010036322022

Criminal Bail Application No. 979/ 2022

Salim Shoheb Khan

Applicant

Versus

The State of Maharashtra

Respondent

ORDER BELOW EXHIBIT- 1

(Passed on 12/10/2022)

1] This is an application for bail U/sec.439 of Cr.P.C. in connection with C.R.No.660/2022 registered with Sangli city police station for the offence U/sec.306, 498-A, 323, 504, 506 of I.P.C.

2] Heard Ld.Advocate Mr.S.S.Hangad for the applicant and Ld.A.P.P. Mr.M.H.Gramopadhye for the State.

3] The Ld.Advocate for the applicant submitted that marriage of the applicant was performed with deceased Najmin on 14/3/2022 as per Muslim religion and rites. After one month of marriage deceased Najmin left the house of applicant and was residing with her parents at Sainathnagar, Karnal road Sangli. Applicant is residing at Alishan colony near Vaddetir darga Kupwad. On 24/9/2022 Najmin committed suicide by hanging. The present complaint has been lodged by father of deceased on 28/9/2022 after an inordinate delay of four days afterthought with an ulterior motive and intention to harass applicant. Applicant had never induced or abetted deceased Najmin to commit the suicide. Applicant had never given illtreatment and harassment to deceased Najmin on the count that she was blind by one eye. Section 306 and 498-A of IPC cannot be attracted to the present facts of the case. Applicant was arrested on 29/9/2022. Nothing is to be recovered at the instance of applicant.

Applicant has no past criminal antecedent. By keeping applicant behind the bar no purpose would be served. Applicant is ready to cooperate with the investigation. Applicant, therefore, prayed for grant of bail on any terms and conditions.

4] Ld.A.P.P. for the State objected for grant of bail mainly on the ground that deceased Najmin was blind by one eye. On the reason of blindness applicant was not ready to cohabit deceased Najmin and, therefore, deceased Najmin was residing with her parents house. The deceased Najmin had made complaint to Councilling centre, Cell for Women and Children, Sangli city police station Sangli against the applicant on 21/7/2022. Applicant did not show ready and willingness to cohabit deceased Najmin, before Councilling centre and Cell for Women and children in Sangli city police station and, therefore, the matter was not settled amicably. Deceased was under depression, as applicant was not cohabit with her. Due to illtreatment and harassment deceased Najmin was forced to commit the suicide out of the situation created by the applicant. There is prima facie case against the applicant for the offence punishable U/sec.306, 498-A, 323, 504, 506 of I.P.C. Investigation is in progress. The offence is committed within one year of marriage by the applicant. In such circumstances, if the applicant is released on bail there is every possibility of tampering with evidence. Prosecution therefore, prayed for rejection of application.

5] The Ld.Advocate for the applicant relied upon reported case **Rahul Chandran Vs State of Kerala in Bail Appln. No.1224/2021 decided on 12/3/2021** therein referred the judgment of the Hon'ble Supreme Court in case of Amelendo Pal Vs. State of West Bengal (2010) 1 S.C.C. 707 therein it has been observed that , 'it is also to be borne in mind that in cases of alleged abetment of suicide there must be proof of direct or indirect acts of

incitement to the commission of suicide. Merely on the allegation of harassment without there being any position action proximate to the time of occurrence on the part of the accused which led or compelled the person to commit suicide, conviction in terms of Section 306 Indian Penal Code is not sustainable'. "The Court noted that before a person may be said to have abetted the commission of suicide, they must played an active role by an act of instigation or by doing a certain act to facilitate the commission of suicide".

6] It is further the Hon'ble Apex Court in case of **Ude Singh and Ors. Vs. State of Haryana AIR 2019 SC 570**, therein it has been observed that, 'in cases of alleged abetment of suicide, there must be a proof of direct or indirect act/s of incitement to the commission of suicide. It could hardly be disputed that the question of cause of a suicide, particularly in the context of an offence of abetment of suicide, remains a vexed one, involving multifaceted and complex attributes of human behaviour and responses/reactions. In the case of accusation for abetment of suicide, the Court would be looking for cogent and convincing proof of the act/s of harassment of the deceased by another person would not suffice unless there be such action on the part of the Accused which compels the person to commit suicide; and such an offending action ought to be proximate to the time of occurrence. Whether a person has abetted in the commission of suicide by another or not, could only be gathered from the facts and circumstances of each case.

7] From perusal of FIR, it is revealed in the instant case that deceased Najmin was blind by one eye. Allegations are that due to harassment and illtreatment deceased Najmin left the house of applicant and was residing with her parents house. She was residing for about 5 months in the parents' house. She made complaint to Women Cell on 21/7/2022, but the

applicant refused to cohabit with her. Deceased Najmin has committed suicide by hanging, in the house of her parents. It appears that deceased Najmin was under depression. However, if the person who committed suicide had been hyper sensitive and action of the accused is otherwise, not ordinarily expected to induce a similarly circumstanced person to commit suicide, it would not amount to abetment of suicide. Applicant was arrested on 29/9/2022 and since then is behind the bar. By keeping him behind bar no purpose would be served. There is delay of 04 days in lodging of FIR which creates serious doubt. In such set of facts it would be just and proper to release applicant on bail on the following terms and conditions.

ORDER

- 1] Cri.B.A.No.979 /2022 is hereby allowed.
- 2] Applicant **Salim Shoheb Khan** be released on furnishing P.R. bond of ₹.20,000/- with like amount of one or two sureties
- 3] Applicant shall attend the concerned police station on every Sunday in between 11:00 a.m. to 01:00 p.m. till filing of charge-sheet and to cooperate the investigating agency.
- 4] The applicant shall not tamper with the prosecution evidence in any manner.
- 5] The applicant shall not indulge in similar kinds of offences.
- 6] Breach of any of the condition would be ground for cancellation of bail.
- 7] Bail before concerned Court.

Place : Sangli

Date : 17/10/2022

(R.K.Malabade)

District Judge-1 Sangli
Addl. Session Judge, Sangli.

CERTIFICATE

I affirm that, the contents of this P.D.F. file Order
are same, word to word, as per the original order.

Name of Stenographer		Mr.S.S.Kulkarni (Grade-I)
Court		District Judge-1 & Additional Sessions Judge, Sangli
Date		17/10/2022
Order signed by the Presiding Officer on		17/10/2022
Order uploaded on		17/10/2022