

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

Criminal Application No.812 of 2015

Raju @ Rajendra Baliram Borse. .. **Applicant.**

Versus

The State of Maharashtra. .. **Respondent.**

Shri. Girish Rane, Advocate, for applicant.

Shri. A.V. Deshmukh, Additional Public Prosecutor, for respondent.

CORAM: T.V. NALAWADE, J.

DATE : 4th MARCH 2015

ORDER:

1) The application is filed for bail. Both the sides are heard. This Court has perused the papers of investigation including the post mortem report and the spot panchanama.

2) Crime is registered on the basis of report given by the brother of the deceased. The applicant is the husband of the deceased. The deceased has left behind

two issues from the applicant. The applicant had suspicion about the character of the deceased and there used to be quarrels between them. Relatives of the complainant tried to convince the applicant to behave well and on many occasions he had given promise to behave well but his conduct never improved. On 8-6-2014 at 8.00 a.m. the deceased visited the house of the complainant and she disclosed that on that date the applicant had picked up quarrel and he had given beating to her out of suspicion about her character. At 8.00 p.m. the complainant visited the house of the applicant which is situated in the vicinity and made inquiry about the quarrel. He also advised them to leave that place.

3) On the night between 8-6-2014 and 9-6-2014 at 2.00 hours when the complainant came out of his house to ease himself he noticed that the applicant was coming out of the house, he was in hurry and he was going away. The complainant gave call to the applicant but the applicant did not respond and went away. Due to this conduct of the applicant, the complainant had suspicion and he went to the house of the applicant and peeped inside the house

through window and he noticed that his sister, Savita was hanging at the beam of the room of the house. He called other persons including Police Patil and then report came to be given for offences under sections 302, 201 of the Indian Penal Code.

4) In the post mortem report the doctor has mentioned that there were two ligature marks. Though there is mention that the ligature mark was of upward direction there is no mention whether the ligature was complete or it was disappearing towards upward side. There were some injuries on the chick of the deceased. All the injuries are mentioned as ante mortem. The spot panchanama shows that the height of the deceased was 4'.10" and the distance from her head to the floor was 5 feet. The learned Additional Public Prosecutor submitted that the conduct of the applicant needs to be kept in mind and the opinion of the doctor is not binding on the Court.

5) Though the doctor has opined that the death took place due to hanging, the aforesaid material needs to be considered by the trial Court and the Court can come

to a different conclusion than the opinion formed by the doctor. The other circumstances are required to be considered by the Court. At present there is sufficient material to make out a strong *prima facie* case of offences punishable under sections 302, 201 of the Indian Penal Code. In view of the aforesaid circumstances and as there is possibility of tampering with the prosecution witnesses, this Court holds that it is not a fit case to grant the relief of bail.

6) The application is rejected. The trial Court is expected to expedite the trial and in any case dispose it of within four months from the date of receipt of the order.

Sd/-
(T.V. NALAWADE, J.)

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