

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

CRIMINAL APPLICATION (APPA) NO. 238/2015 IN CRI.APPEAL NO.140 OF 2015.

Mohan s/o Sarangdhar Warkhade ..vs.. The State of Mah. thr. PSO,P.S.Telhara.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr.R.M.Daga, Adv. for the applicant/appellant.
Mr.T.A.Mirza, APP for the respondent.

**CORAM : B.P.DHARMADHIKARI AND
P.N.DESHMUKH, JJ.**

DATED : JUNE 15, 2015.

Heard learned counsel for the parties.

Perused cross-examination of Investigating Officer - Shri Prakash Sawakar (PW 5) and cross examination of father of deceased Shri Raju @ Rajaram (PW 1).

Death is taken place within four days of marriage by throttling. Mr.Daga, learned counsel for the applicant/appellant, submits that in this situation when there is no specific evidence that deceased was last seen alive in the custody of accused, recourse to Section 106 of the Evidence Act is not open. Learned Additional Public Prosecutor disputes this proposition. He submits that the deceased did not have any time or occasion to complaint to anybody.

Neither father of the deceased nor Investigating Officer has found anything suspicious against the appellant/accused. The Investigating Officer has also admitted that there was no cogent evidence to demonstrate presence of accused in room with deceased.

In this situation, prima facie, we are satisfied that the case for releasing the appellant on bail during the pendency of appeal is made out. Accordingly, applicant/appellant be released on bail on furnishing two sureties in the amount of Rs.25000/- each to the satisfaction of Additional Sessions Judge, Akot. He shall also

undertake to appear before that Court once in every two months during pendency of appeal. Non-appearance before that court during pendency of appeal shall be construed as breach of condition of release on bail and shall result automatically in its cancellation.

Application is allowed accordingly.

JUDGE

JUDGE

Chute.