

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.441/2016

IN

CRIMINAL APPEAL NO.27/2016

Dilip Sukhdeo Gaikwad.

...Applicant..

Versus

The State of Maharashtra.

...Respondent...

.....

Shri S.B. Bhapkar, Advocate for applicant.

Shri M.M. Nerlikar, APP for respondent.

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CORAM: R.M. BORDE &

K.L. WADANE, JJ.

DATE: 02.05.2016

ORDER :

1] Heard learned counsel for the parties.

2] The applicant - accused is convicted for commission of the offence punishable u/s 302 of the Indian Penal Code and is sentenced to suffer imprisonment for life.

3] The deceased is the wife of the applicant - accused - husband and *prima facie*, the presence of the husband at the scene of the occurrence cannot be doubted. The

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burden lies on the applicant - husband to establish the circumstances leading to the death of his wife. Apart from this, the prosecution evidence consists of a dying declaration of the deceased recorded after the occurrence of the incidence. The dying declaration has been duly proved. The doctor has also deposed about the condition of the patient and has certified that she was in a fit state to depose.

4] *Prima facie*, no case is made out for enlargement of the applicant - accused on bail. The applicant was not granted liberty during the continuance of the proceedings in the trial Court.

5] In view of above, the criminal application seeking enlargement of the applicant - accused on bail stands rejected. However, the Registry is directed to ensure preparation of the paper book within eight weeks from today. After receipt of the paper book, the appeal shall be listed for final hearing.

(K.L. WADANE, J.)

(R.M. BORDE, J.)