

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

21 CRIMINAL APPLICATION NO. 4183 OF 2016

**RAJENDRA @ RAJARAM S/O JANARDHAN
AHER**

VERSUS

THE STATE OF MAHARASHTRA

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Mr. Sandeep Gorde Patil, Advocate for Applicant.

Mr. A.S.Shinde, A.P.P. for Resp. – State.

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CORAM : A.M.BADAR, J.

DATE : 22nd AUGUST, 2016

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PER COURT :

1. The applicant/accused in Crime No. 42/2016 registered at Taluka police station, Sangamner, Tq. Sangamner, Dist. Ahmednagar for the offences punishable u/ss 302,498-A,201,504,506 read with 34 of the Indian Penal Code by this application is praying for releasing him on bail after filing of the charge sheet.

2. Heard learned counsel for the applicant as well as learned A.P.P. By drawing my attention to the statement of Dattu Pawar, learned A.P.P. argued that the deceased was in

custody of present applicant and thereafter she was found dead. Therefore, with the aid of Section 106 of the Evidence Act, the guilt of the applicant for the offence punishable u/s 302 of the Indian Penal Code can be inferred. Learned A.P.P. further argued that statement of witnesses goes to show that there used to be demand of Rs. 5 Lakh to deceased Nanda by her in-laws and on that count she is murdered by present applicant and co-accused.

3. Perused the charge sheet including the report lodged by Gopinath Bhagwat - brother of deceased Nanda. According to the prosecution case, deceased Nanda married applicant Rajendra 12 years prior to her death and since then she was residing with the present applicant and their children.

4. F.I.R. reveals that on 07/04/2016 at about 10.00 p.m., present applicant telephonically informed Nabaji Bhagwat - father of the deceased Nanda alleging that Nanda eloped with a person from Bhil community. Thereafter informant Gopinath called on cell phone of his sister Nanda. Co-accused Bhausahab - brother of the applicant picked up that call and asked the informant to come to their place urgently. F.I.R. also reveals that co-accused Bhausahab had disclosed informant that at about 4.00 - 5.00 p.m., young person from Bhil community had been to the cattle shade for meeting Nanda. It is seen that Vimal Aher - sister-in-law of Nanda had been to the police station for lodging missing report of Nanda on the very same day. Her report was not accepted and, therefore, on 08/04/2016, as seen from F.I.R.,

in-laws of Nanda had been to the police station for lodging the report.

5. It is seen from the charge sheet that after frantic search of Nanda, ultimately her dead body was found in the well on 09/04/2016.

6. The case of the prosecution is based on circumstantial evidence. In order to make out *prima facie* case for the offence punishable U/s 302 of the Indian Penal Code, it is incumbent on the part of the prosecution to establish all links in the chain of circumstances which should consistently point out guilt of the accused and the same should be in consistent with the hypothesis of his innocence.

7. In the case in hand, the only circumstance relied by the prosecution is finding the present applicant in company of his wife i.e. Nanda on 07/04/2016 when they were working together at the cattle shade. Another circumstance in the nature of motive is demand of ₹ 5 Lakh to Nanda by accused persons. Except this, nothing is found in the charge sheet which would implicate the applicant in the crime in question.

8. The another version which is also reflected from the charge sheet is the illicit relation of deceased Nanda with a person named Rakesh Pawar. Statements of the witnesses are to the effect that Nanda had eloped with the person from Bhil community. Investigating Officer has recorded statement of Lalita, which *prima facie* indicates this fact. Call detail record

gathered by the Investigating Officer do show that deceased Nanda was consistently in touch with Rakesh Pawar telephonically before finding out her dead body. The conduct of accused persons including the present applicant reflected from the F.I.R. as well as charge sheet is also relevant. They immediately called the prosecuting party and asked them to come to their place by disclosing that Nanda had eloped with a person from Bhil community.

9. In the wake of this evidence, further pre-trial detention of the present applicant in the crime in question is not warranted. Hence, the following order.

- (i) The application is allowed.
- (ii) The applicant Rajendra @ Rajaram s/o Janardhan Aher in Crime No. 42/2016 registered at Taluka police station, Sangamner, Tq. Sangamner, Dist. Ahmednagar for the offences punishable u/ss 302,498-A,201,504,506 read with 34 of the Indian Penal Code be released on bail on executing P.R. Bond of Rs. 15,000/- [Rupees Fifteen Thousand] and on furnishing surety in the like amount.
- (iii) As a condition of this Order, the applicant shall not extend any threat, inducement or promise to the persons acquainted with the facts of the accusation so as to dissuade them from disclosing

the same either to the police or the Court.

- (iv) The applicant shall not tamper the evidence of the prosecution.
- (v) The applicant to co-operate the trial Court in the expeditious disposal of trial against him.

[A.M.BADAR, J.]