

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

CRIMINAL APPLICATION NO. 5207 OF 2016

Kailas s/o. Macchindra Puri .. Applicant
Age. 38 years, Occ. Labourer,
R/o. Walaki, Tq. Rahata,
Dist. Ahmednagar.

Versus

The State of Maharashtra .. Respondent

Mr.R.S. Sadaphule, Advocate for the applicant.
Mr.S.D. Ghayal, APP for respondent/State.

**CORAM : A.M. BADAR,J.
DATED : 24.10.2016**

P.C. :-

1. The applicant/accused in Crime No. I-33 of 2016 registered with Rahata Police Station, Dist. Ahmednagar, for the offence punishable under section 302 of the Indian Penal Code, is seeking his release on bail, after filing of charge-sheet.

2. Heard learned Counsel for the applicant/accused. He argued that the case is based on circumstantial evidence and there are no clinching circumstances to infer the guilt of the applicant in the crime in question.

3. Learned A.P.P. opposed the application by contending that there was motive with the applicant to eliminate his wife and the statement of mother of the applicant as well as witness - Bharat shows that the applicant and the deceased were lastly seen in the company of each other.

4. I have carefully considered the rival submissions and perused the charge-sheet. The crime in question is registered on the basis of a report lodged by Dnyaneshwar Giri, reporting homicidal death of his sister Vandana Kailas Puri. The applicant is husband of deceased Vandana. The post-mortem report shows that she died homicidal death.

5. According to the prosecution case as reflected from the charge-sheet, because of report of rape on her lodged by Vandana against two persons, the applicant used to suspect her character. Therefore, in the morning hours of 29.03.2016, he murdered Vandana at his field.

6. Evidence against the applicant is comprising of statement of his mother Tarabai and statement of witness Bharat. Tarabai is stating that after 07.00 a.m. of 29.03.2016, the applicant and deceased Vandana left the house for doing work in their agricultural field. Bharat

is stating that at about 8.00 a.m. of 29.03.2016, he saw the applicant and his wife deceased Vandana proceeding towards their field. Statements of other witness are showing that they had seen dead body of Vandana lying in the field of the applicant with bleeding injuries on her person.

7. It is seen from the charge-sheet that on earlier occasion i.e. on 23.10.2013, Vandana had lodged a report for offence punishable under section 376 of the Indian Penal Code etc. against two persons from village Walaki alleging commission of rape on her. Statements of her children show that there used to be quarrel between Vandana and their father. However, prima facie, it is seen that the investigator has not recorded the statement of the witness, who had first seen the dead body of Vandana, lying in the field. Vandana had left the house, according to the prosecution case, at about 7.00 a.m. and she was seen in the company of the applicant at about 8.00 a.m. However, it appears that her dead body was found in the field at about 10.00 a.m. Nobody is stating that he had seen the applicant with the deceased soon after the incident. What happened in two hours period is not getting answered in the charge-sheet.

8. Therefore, considering the nature of evidence

available against the applicant, his further pre-trial detention is not warranted. Hence, the following order :-

O R D E R

- i) The application is allowed.
- ii) Applicant/accused - Kailas s/o. Macchindra Puri, in Crime No. I-33 of 2016, registered with Rahata Police Station, Dist. Ahmednagar, for the offence punishable u/s 302 of the Indian Penal Code, be released on bail on executing P.R.Bond of Rs. 30,000/- [Rupees Thirty 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.]