

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

2 CRIMINAL APPLICATION NO. 5261 OF 2016

NITIN S/O RAMDAS PATIL

VERSUS

THE STATE OF MAHARASHTRA

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Mr. S.D.Kotkar, Advocate for Applicant.

Mr. S.M.Ganachari, A.P.P. for Resp. – State.

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CORAM : A.M.BADAR, J.

DATE : 21st, OCTOBER 2016

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PER COURT :

1. The applicant/accused in Crime No. I-163/2015 registered at M.I.D.C. Waluj police station, Aurangabad for the offences punishable u/ss 363,302,201 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 the learned counsel for the applicant. He argued that supplementary statement of informant Kailas s/o

Haribhau Bagate goes to show that when it was alleged against co-accused Sangita that she had stolen Mangalsutra of mother of the deceased, present applicant had sent his wife Sangita to her parental house. In the wake of this conduct of the applicant, according to the learned counsel for the applicant, he has no concern with the crime in question. He further argued that confession of Sangita shows that present applicant had only assisted his wife Sangita, who is co-accused in this crime, in sealing and disposing of the dead body. The learned counsel further argued that the spot panchanama does not show presence of the applicant at the time of detection of the dead body in his house.

3. Learned A.P.P. opposed the application by contending that after detection of dead body of Pranali, present applicant was very much present at his house and after enquiring him he had not disclosed anything to the police.

4. I have considered the rival submissions and also perused the charge sheet. Initially, informant Kailas Bagate – father had lodged report that his daughter named Pranali aged

about 5 years went missing from the front-yard of his house at about 4.30 p.m. on 24/06/2015. Charge sheet shows that thereafter there was a frantic search by the family of the informant as well as residents of the locality to trace out Pranali. However, she could not be traced out. Ultimately, her dead body was found in the drain of the locality at about 9.00 – 9.30 p.m. on 25/06/2015. Keshav Dhage firstly noticed dead body of Pranali. The residents of the locality gathered there. Police were called. Supplementary statement of the informant and statements of Keshav Baliram Dhage, Sakhrabai w/o Baliram Dhage, Shivaji Madhav Wartale and Mangal Kailas Bagate goes to show that dead body of Pranali was found just adjacent to the door of the house of present applicant and his wife co-accused Sangita. At the door of the house of present applicant, blood stain was found by the informant as well as witnesses. Then, as seen from the charge sheet, police started enquiring the matter with present applicant Nitin and his wife co-accused Sangita. Statements of witnesses shows that both of them were present on the spot when the dead body was detected. The applicant and his wife did not disclose anything to police, as seen from the statements of witnesses. Therefore, police took search of the

house of present applicant and his wife Sangita.

5. Spot Panchanama shows what was found inside the house of present applicant, which was occupied by him with his wife Sangita. There were stains of blood on the floor of that house. On the wooden cot in that house, there was a towel stained with blood. A pair of chappal was found on the spot inside the house of the applicant. One of that footwear was found to be stained with blood. There was trail of blood towards the drain. Police has seized sample of blood as well as blood stained towel and footwear found on the spot of the incident apart from other articles, including a big box of steel where allegedly the dead body was kept.

6. Statements of witnesses also shows confession made by the wife of present applicant, but as the same was before police, that will be of no consequence.

7. Circumstantial evidence gathered by the prosecution vis-a-vis the fact that Pranali, a female child, aged about 5 years died homicidal death with injuries on her genitals, *prima facie* shows complicity of the present applicant

with the crime in question.

8. Considering the nature of offence and the manner in which it allegedly took place, no case for bail is made out.

9. Criminal Application stands rejected and disposed of.

[A.M.BADAR, J.]