

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

**CRIMINAL APPLICATION NO. 5333 OF 2016**

Pandurang s/o. Pundalik Pathare .. Applicant  
Age. 55 years, Occ. Agri. & Labour,  
R/o. Pendephal, Tq. Vaijapur,  
Dist. Aurangabad.

Versus

The State of Maharashtra .. Respondent

Ms. Fatema Kazi h/f. Mr. S.S. Kazi, Advocate for the  
applicant.  
Mr.S.B. Yawalkar, APP for respondent/State.

**CORAM : A.M. BADAR, J.  
DATED : 27.10.2016**

**P.C. :-**

1. The applicant/accused in Crime No. I-110 of 2016 registered with Shivoor Police Station, Dist. Aurangabad, for the offence punishable under section 302 of the Indian Penal Code, by this application, is seeking his release on bail.

2. Heard learned Counsel for the applicant/accused. She argued that the applicant spent 30 years of married life with his deceased wife – Hirabai. She was found dead in their hut on 05.08.2016. Learned Counsel argued that the deceased was having some mental ailment, for which she was taking treatment from the year 2012.

3. Learned A.P.P. opposed the application by contending that the deceased died because of ante-mortem burn injuries in her residential place, which she used to share with the present applicant. Learned A.P.P. further argued that as yet final cause of death is not received by the investigator. Therefore, bail cannot be granted.

4. I have carefully considered the rival submissions and also perused papers of investigation. Documents annexed to the application go to show that right from the year 2012 deceased Hirabai was taking treatment from Psychiatric at Sangamner. She along with the present applicant was residing in a hut situated in the field in village Pendephal. Hirabai suffered burn injuries in that hut and died because of burn injuries. The post-mortem report shows that she had suffered 71% burn injuries, which are stated to be ante-mortem in nature. There were two denuding injuries on her person, which are prima facie attributable to radiating heat.

5. Out of wed-lock with the present applicant, Hirabai had given birth to two daughters and one son. Her both daughters are married and her son is taking education at Aurangabad. Their statements do not show that their mother was subjected to cruelty by the present

applicant.

6. The F.I.R. lodged by brother of the deceased attributes motive. According to the prosecution case, the deceased was not allowing the applicant to sell out their agricultural land and therefore, she was done to death by the present applicant.

7. Perusal of the papers of investigation does not show that at the time of the incident, the deceased was in the company of the present applicant. Apart from the fact that the incident happened in the residential hut of the applicant, which he used to share with his deceased wife, there is no tangible evidence to infer that burns suffered by Hirabai were homicidal burns, caused by the present applicant. Substantial part of the investigation appears to be over because statements of witnesses are recorded, report of post-mortem examination is collected and seized articles are sent of chemical analysis.

8. In this view of the matter, considering the evidence against the present applicant, his further pre-trial detention is not warranted. As such, the following order :-

**O R D E R**

- i) The application is allowed.
- ii) Applicant/accused – Pandurang s/o. Pundlik Pathare Crime No. I-110 of 2016 registered with Shivoor Police Station, Dist. Aurangabad, for the offence punishable under section 302 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.]**