

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

CRIMINAL APPLICATION NO. 5775 OF 2016

Uttam s/o. Maruti Bhandare .. Applicant
Age. 68 years, Occ. Pensioner,
R/o. Narsoba Nagar, Dhanora Road,
Beed, Tq. & Dist. Beed.

Versus

The State of Maharashtra .. Respondent

Mr.N.S. Tekale h/f. Mr. P.P. Mandlik, Advocate for the
applicant.
Mr.S.D. Ghayal, APP for respondent/State.

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

P.C. :-

1. Learned Counsel for the applicant seeks leave to produce affidavit of Atmaram s/o. Gangaram Dhumal on record. Leave granted. The affidavit cum undertaking is taken on record. Same is accepted.

2. The applicant/accused in Crime No.181 of 2015, registered with Shivaji Nagar Police Station, Dist. Beed, for the offence punishable under section 302 of the Indian Penal Code, by this application is seeking his release on bail.

3. Heard learned Counsel for the applicant/accused. He argued that there are no circumstances to connect the applicant with the crime in question. The applicant was not present on the spot of the incident when the offence took place. Learned Counsel further drew my attention to the observations of learned Sessions Judge showing that the applicant is suffering from some mental ailment.

4. Learned A.P.P. opposed the application by contending that as the applicant is suffering from mental ailment, he could not be released on bail. Learned A.P.P. further placed reliance on statements of witnesses such as Shailesh, Vaishali and Sangita.

5. Perused the charge-sheet. It is prosecution case that by suspecting the character of his wife, applicant has murdered his wife in the night intervening 14.06.2015 and 15.06.2015 in his residential house.

6. Perusal of the charge-sheet and particularly the F.I.R. lodged by son of the applicant and the deceased shows that the applicant, his wife i.e. deceased Rukminibai, their son - informant Balu and Balu's family comprising of his wife, two sons and a daughter were residing jointly in a house located at Narsoba Nagar, Beed. The F.I.R. shows that on 15.06.2015 after 7.00

a.m. the informant left the applicant at the Bus Stand. Similar is the statement of Vaishali - daughter-in-law of the applicant. She is also stating that after 7.00 a.m. of 15.06.2015, her husband Balu and her father-in-law i.e. the present applicant, left the house.

7. It is seen that subsequently at about 9.30 a.m. oo 15.06.2015, Shailesh - grandson of the present applicant returned from tuition classes and saw dead body of Rukminibai lying in her room. Then he called other inmates of the house and also informed his father about the incident through neithbour's phone.

8. Perusal of the spot panchanama shows that the house where in all seven persons were residing is a small house comprising of four rooms. All inmates of that house are closest relatives. The incident allegedly took place in the night intervening 14.06.2015 and 15.06.2015. Rukminibai died homicidal death. There were several injuries on her dead body. Still nobody from that small house was aware about the incident of murder of Rukminibai, caused due to hemorrhagic shock due to injury. When the dead body was detected, the applicant was not in the house. He had left the house along with his son i.e. the informant Balu in the morning hours. The dead body was detected after about a gap of two hours

thereafter. Other material is seizure of weapon of offence and clothes of the present applicant. Prima facie, this material gathered during the investigation does not complete the chain of circumstances against the present applicant to connected him to the crime in question.

9. The order of Sessions Judge rejecting the bail application shows that the applicant is suffering from mental ailment. However, the learned Sessions Judge has rejected the application for grant of bail with observations that none of the relative of the present has came forward to undertake their readiness to take care of the present applicant, so also production of the present applicant before the Court. Section 330 of the Cr.P.C. provides for release of a person of unsound mind on bail, pending investigation or trial. In the case in hand, the applicant has produced on record an affidavit cum undertaking of Atmaram s/o. Gangaram Dhumal – brother-in-law of the applicant, declaring that if bail is granted to the applicant, he will take care of medical treatment of the applicant and also that of presenting him before the learned Trial Court on each and every date.

10. In this view of the matter, the following order is passed :-

O R D E R

- i) The application is allowed.
- ii) Applicant/accused - Uttam s/o. Maruti Bhandare, in Crime No. 181 of 2015, registered with Shivaji Nagar Police Station, Dist. Beed, for the offence punishable u/s 302 of the Indian Penal Code, be released on bail on executing P.R.Bond of Rs. 20,000/- [Rupees Twenty 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.]