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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.25 OF 2016

Sachin Harish Malve	 Applicant
V/s.	
The State of Maharashtra	 Respondent

Mr. Kuldeep S. Patil, for the Applicant.

Mr. Deepak Thakarey, APP for the Respondent State.

CORAM : A. M. BADAR, J.

DATE : 14th JUNE, 2016.

P.C. :

1. The applicant-accused in Crime No.450 of 2015, registered with police station, Chakan, District: Pune, for the offence punishable under Sections 498A, 306, 323, 504 read with 34 and Section 302 of the Indian Penal Code, which is subsequently added to the case diary, by this application is praying for releasing him on bail.

2. Heard the learned counsel appearing for the applicant extensively. By pointing out the report of accidental death case of his wife, Usha, lodged by present applicant, learned counsel argued that even the spot panchnama recorded by police corroborates the initial version of the incident given by the applicant. Learned counsel for the applicant submits

that the spot panchnama shows that the latch of the door where the incident had happened was found broken and therefore, prima facie it seen that in the absence of the present applicant, his wife had committed suicide by hanging. He, therefore, submits that the offence punishable under Section 302 of IPC is not prima facie made out, therefore, entitling release of the applicant on bail. Learned counsel further argued that statement of neighbourer also shows that the deceased died because of suicide.

3. As against this the learned APP submits that the findings in the postmortem examination as well as the opinion of Autopsy Surgeon go to show that the death of deceased is homicidal and the cause is strangulation i.e. by applying external force to her neck rather than death by hanging.

4. It is seen from the chargesheet that Usha, the wife of the applicant Sachin, died at their residential flat at Chakan in Khed taluka, Pune District. Statement of witnesses and particularly neighbourers of the applicant goes to show that the present applicant was sharing that flat only with his wife Usha (since deceased) and their son by name Samyak. The statement of next door neighbourer of the present applicant shows that except these three persons there were no other inmates of that flat.

5. After death of Usha, her dead body was sent for autopsy.

The postmortem report shows that there were ligature mark of about 5 Cms below chin, 5 to 8 cms broad around the neck. It was anteriorly placed and running laterally and horizontally going behind ear. Apart from this ligature mark, several other antemortem injuries such as contusion over both the cheeks, contusion over right ear, contusion over both palms and abrasion over arms of the dead body were found during autopsy. The autopsy surgeon concluded death of Usha is asphyxia secondary to strangulation.

6. Prima facie the postmortem report shows that she died because of application of external force by constricting her neck rather than death due to hanging. The findings of several injuries on the dead body also indicates that the death of deceased is homicidal. Record of investigation shows that Usha was in custody of the applicant. Statement of neighbourer indicates this fact. Considering the fact that the dead body of Usha was having several injuries and Autopsy Surgeons have concluded her death to be by strangulation, prima facie it becomes the responsibility of the applicant/accused to explain as to how Usha died while in his custody because this fact is especially within the knowledge of the present applicant/husband.

7. The learned APP has rightly pointed out the spot panchnama which shows that household articles in the room where the incident had

happened were found in disorderly manner. This prima facie indicates incident of violence. In the spot panchnama, it has been recorded that the latch of the door of the bed room of the flat was broken, but the death occurred while the deceased was in exclusive custody of the applicant and the question as to whether the latch was broken in order to enter in the room or for creating evidence of suicidal death shall have to be looked into at the time of trial.

8. As the offence is punishable with life imprisonment or death penalty, no case for bail is made out. Hence order.

Order.

The application is rejected.

[A. M. BADAR, J.]