

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO. 372 OF 2016
IN
CRIMINAL APPEAL NO. 821 OF 2015**

Nabi Hasan Noor Hasan Khan ..Applicant

v/s.

The State of Maharashtra . ..Respondents

Mrs. Nasreen S.K.Ayubi for the Applicant.
Mrs. A.S.Pai, APP for the Respondent/State.

**CORAM : SMT. V.K.TAHILRAMANI &
SMT. ANUJA PRABHUDESSAI, JJ.
DATED : MARCH 28, 2016.**

P.C. (Per Smt. Anuja Prabhudessai, J.).

1. The applicant who has been convicted for offence under Section 302 of IPC and sentenced to undergo imprisonment for life and pay fine of Rs.25,000/-, in default to undergo R.I. for six months, by this application has sought suspension of sentence and enlargement on bail during pendency of the appeal.

2. Heard the learned Counsel for the applicant and the learned APP for the State.

3. We have perused the records and considered the submissions advanced by the learned Counsel for the respective parties.

4. The evidence on record reveals that the applicant herein was married to Santoshi, the daughter of the first informant Jagdevi Deepak Shah @ Sakina Salim Khan. On 29.12.2010 PSI Raghunath Ghume had received information that body of one woman was seen lying at Shyam Talao in suspicious condition. PSI Ghume visited the scene and found that one lady was lying on the ground in supine position. Blood was oozing from her nose and her dupatta was tied around her neck. He called Dr. Maurya to the spot, who examined said lady and declared her to be dead. PW1 Jagdevi has identified the said body as that of her daughter Santoshi. The body was sent for postmortem.

5. The testimony of PW5 reveals that there was a ligature mark

around the neck and two contusions over the scalp region. The doctor has opined that the death was due to asphyxia due to strangulation.

6. The evidence of PW1 Jagdevi, mother of the deceased reveals that her daughter Santoshi was in love with the applicant who was a vegetable vendor. PW1 has deposed that she got the applicant and her daughter married, and thereafter the applicant and her daughter were residing at Jijamata Chawl Welfare Society. The testimony of PW1 indicates that the applicant used to consume alcohol and used to quarrel and assault the deceased Santoshi. On 26.12.2010 at about 4-5 p.m. Santoshi had gone to her matrimonial house and had informed PW1 that the applicant had quarreled with her and had assaulted her. Santoshi stayed with PW1 for two days. On 28.12.2010 at about 8.00 to 8.30 p.m. the applicant came to the house of PW1 and assured that he would not beat Santoshi and would treat her properly. Hence PW1 sent her daughter with the applicant. On 29.12.2010 at about 7.00 to 8.00 p.m. she learnt that the body of Santoshi was lying in the forest area near Moiniya

Masjid.

7. PW3 Mumtaz, is the sister of the deceased. Her testimony also reveals that the deceased had come to her paternal house on 26.12.2010 and had disclosed that the applicant herein had assaulted her and that she did not want to return to her matrimonial house. Her evidence prima facie reveals that the applicant had taken Santoshi along with him on 28.12.2010 at about 8 p.m. and had assured that he would treat her well.

8. The testimony of PW4 Quresshi indicates that the applicant used to consume alcohol and used to constantly quarrel with his wife. He has stated that one night at about 7.00 to 8.00 p.m. he had seen the applicant proceeding towards his house with his wife. On the next morning he came to know that the body of Santoshi was found in the forest.

9. The testimony of PW2 Fatima reveals that she knows the applicant and his wife Santoshi as they were residing in the same

locality. She has stated that the applicant used to quarrel with Santoshi and used to assault her while under the influence of alcohol. Her testimony further reveals that about 2-3 days prior to the incident Santoshi had gone to her parental house. Some days later the applicant had come to her house. He appeared to be scared and asked her to give him Rs.100/-. She has stated that thereafter the applicant had disclosed to her that he had killed Santoshi. She therefore went to the house of PW1 to disclose the said information to the parents of Santoshi. However, she found that the house was locked. Hence she went to the house of the applicant and informed his sister that the applicant had told her that he had killed Santoshi. She has stated that thereafter Ruksar, the sister of the applicant came to her house and when she enquired with the applicant as to what he had done, he disclosed that he had strangled Santoshi by means of dupatta.

10. The evidence on record thus reveals that the applicant used to ill-treat his wife Santoshi, and as such she had gone to her paternal house on 26.12.2010. The applicant had assaulted PW1 that he

would not ill-treat her and had taken the deceased with him on 28.12.2010 at about 8.00 p.m. The body of the deceased was found in the forest on the next day. The testimony of PW2 reveals that the applicant herein had told her that he had strangled the deceased. The medical evidence corroborates the extra judicial confession. The above circumstances, prima facie are sufficient to establish the guilt of the applicant.

11. Considering the above facts and circumstances, we are not inclined to enlarge the applicant on bail. Hence the application is dismissed.

(SMT. ANUJA PRABHUDESSAI, J.) (SMT. V.K.TAHILRAMANI, J.)