

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.522 OF 2016

IN

CRIMINAL APPEAL NO. 67 OF 2015

Alauddin s/o. Islam Ansari

...Applicant

Versus

The State of Maharashtra

...Respondent

...

Mr. I.M. Khairdi for the Applicant.

Mr. H.J. Dedia, APP for the Respondent -State.

**CORAM: SMT. V.K. TAHILRAMANI &
SMT. ANUJA PRABHUDESSAI, JJ.**

DATED: 25th APRIL, 2016.

ORAL ORDER [PER SMT. ANUJA PRABHUDESSAI, J]:-

The Applicant/ accused No.1 who has been convicted and sentenced for offence under section 302 of the IPC, in Sessions Case No.660 of 2011 has sought suspension of substantive sentence of imprisonment and his enlargement on bail pending the decision of appeal.

2. We have perused the records and considered the submissions advanced by Mr. I.M. Khairdi, learned counsel for the Applicant and Mr. H.J. Dedia, learned APP for the Respondent-State.

3. The evidence on record reveals that the Applicant was married to Saliabanu, the daughter of Smt. Kadarbi on 18.12.2008. On 10.2.2009 Smt. Kadarbi, mother of deceased Saliabanu received a phone call from the other daughter Shabnum that Saliabanu had committed suicide. Said Kadarbi, who was at Saudi Arabia, came down to India and lodged a FIR against the Applicant and the other co-accused, pursuant to which Crime No.68 of 2009 came to be registered. PSI Mr. Shivne had conducted the inquest panchanama and sent the body to Sion Hospital for post mortem.

4. The evidence of PW6 Dr. Rajesh Dere vis-a-vis the post mortem report reveals that the death was due to asphyxia following constriction of neck by a soft material like Dupatta. This witness has ruled out the possibility of suicidal death. The evidence on record reveals that as on the date of the incident apart from the accused no other person was present in the house. The Applicant has not offered any explanation as regards the cause of death. The aforesaid circumstances vis-a-vis the medical evidence prima facie reveals the complicity of the Applicant in the said crime.

5. Having considered the material on record, we are not inclined to grant bail and suspend the substantive sentence imposed on the Applicant. Hence, the application is dismissed.

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