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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.1072 OF 2016

Yogesh Tukaram Kolekar	..Applicant.
V/s.	
State of Maharashtra	..Respondent.

Mr.Satyavat Joshi for the applicant.

Mr.S.S. Pednekar, APP for respondent-State.

CORAM : A.M.BADAR, J.

DATED : 8TH AUGUST, 2016

P.C. :-

1. The applicant / accused in Crime No.229/2015 for the offences punishable under section 302, 201, 498A read with 34 of the Indian Penal Code registered with Loni Kalbhor Police Station, District Pune by this application is seeking bail after filing of the charge-sheet against him.

2. Heard the learned counsel for the applicant / accused. By drawing my attention to statements of witnesses Maruti Bhalerao and Santosh Bankar, the learned counsel argued that deceased Rohini had left her matrimonial house

because of alleged harassment by the present applicant and had called her brother-in-law. The learned counsel further argued that the identity of the deceased itself is not establishment. Dead body was found on railway track of Mundewadi Railway Station of Solapur District in a totally mutilated condition. The learned counsel for the applicant further argued that the applicant himself had lodged a missing complaint in respect of his missing wife on 30th May, 2015. According to the learned counsel, statements of witnesses goes to show that the deceased was in the habit of leaving the matrimonial house after quarrelling with her matrimonial relatives.

3. I have also heard the learned APP. The learned APP argued that the identity of the deceased is established as seen from the case diary. The photograph of the deceased was shown to the accused after asking him about the clothes worn by his missing wife. The learned APP further argued that evidence regarding the Call Detail Records goes to show that 25th May, 2015 the applicant was in Solapur District. Dead body was found at Mundewadi Railway Station, Solapur. Hence, according to the learned APP, the applicant is not

entitled for bail.

4. According to the prosecution case, there used to be constant quarrel between the present applicant and his wife Rohini Kolekar. The prosecution has recorded statements of neighbours and relatives of the present applicant. statements of Ashwini Koelkar, Vijaykumar, Baburao, Rajendra, Ratan and Sonam, who are relatives and neighbours goes to show that marriage life of the present applicant and his deceased wife was facing rough weather as there used to be constant quarrel between them. Statements of these relatives and neighbours also show that on 25th May, 2015 the present applicant was at his house and his car was also found at his house.

5. Vitthal Anna Barve and Subhash Pandit are mediators in the marriage of the present applicant with Rohini Kolekar. Even father of the deceased vouch about them. Statements of both these witnesses goes to show that there used to be constant quarrel between the couple and after the quarrel, Rohini used to leave the matrimonial house. Statement of Vitthal Barve goes to show that he had conveyed

both families to mend their ways.

6. Statement of Anna Thorat, father of Rohini Kolekar also shows that Rohini was facing harassment at the hands of the present applicant and his relatives. He further stated that that on 30th May, 2015 he came to know that his daughter Rohini was missing.

7. On this factual backdrop, according to the prosecution case, as reflected from the charge-sheet, the present applicant has committed murder of his wife Rohini Kolekar by pressing her neck as Rohini had demanded an amount of Rs.15,000/- from the applicant. After killing her, the present applicant stacked her body in a gunny bag and put in the dickey of his Swift Car, took it to Mundewadi Railway Station, District Solapur and thereafter, the dead body was put on the railway track to conceal the identity of the deceased.

8. Charge-sheet shows that police personnel from Railway Police, Solapur were informed by Mundewadi Station Master on 25th May, 2015 that a woman died on the railway

track. Thereafter, the informant Namdev Muntode, employee from the railway police department visited the spot and found that a sack containing dead body of a female was kept on the railway track and as it was run over by a train, the dead body was completely mutilated. During the post mortem, it was found that the said woman died of compression of neck. Accordingly, offence came to be registered and ultimately case papers were transferred to Loni Kalbhor Police Station, District Pune.

9. Perusal of the charge-sheet shows that during investigation, the investigator has recorded statement of Maruti Namdev Bhalerao on 14th June, 2015. Statement of this witness goes to show that prior to 15 to 20 days at about 6.20 a.m. he along with his family were present at Naigaon Square in Kunzurwadi for going to his native place. At that time, Rohini Kolekar met them and requested Maruti to hand over his cell-phone to her. She made a call from that cell-phone. Thereafter, Rohini told Maruti that her husband was harassing her and, therefore, she has called her brother-in-law (Daji). Thereafter, as per version of Maruti, said woman left the place. The investigator had shown photograph of missing

Rohini and this witness identified Rohini.

10. Statement of Santosh Bankar recorded on 14th June, 2015 goes to show that prior to 15 to 20 days in the morning hours when he was waiting for the bus, a woman met him near the Primary Health Centre of Kunzirwadi and on her request, he gave his cell-phone to her for making a call. Statement of Santosh shows that the said woman had called her brother-in-law. This witness stated that he heard that women telling her brother-in-law that she is stranding near Government Hospital at Kunziwadi.

11. Coupled with statements of witnesses showing that Rohini Kolekar was in the habit of leaving her matrimonial house after quarrelling with her husband, statements of Maruti and Santosh assumes importance.

12. Other evidence relied by the prosecution is recovery of car of Swift Model came from the present applicant. This recovery appears to be from the residential premises of the present applicant. Nothing incriminating appears to be have been found in the said car to connect the

applicant to the crime in question.

13. Though there is evidence of Call Detail Records, which according to the prosecution shows that the present applicant was in Solapur District, some of the neighbours of the present applicant have stated that the applicant was present at his house on 25th May, 2015.

14. Considering this nature of evidence against the present applicant, on completion of investigation, his pre-trial detention is not warranted and therefore, the order :-

- (i) The application is allowed ;
- (ii) The applicant / accused in Crime No.229/2015 for the offences punishable under section 302, 201, 498A read with 34 of the Indian Penal Code registered with Loni Kalbhor Police Station, District Pune be released on bail on his executing P.R. bond in the sum of Rs.25,000/- with one or two solvent surety in the like amount;
- (iii) As a condition of this order, the applicant / accused shall

not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him / her from disclosing such facts either to the Court or to any police officer and that he shall not tamper with the evidence;

- (iv) The applicant / accused shall co-operate for expeditious disposal of the trial;
- (v) The applicant / accused shall not commit an offence similar to the offence of which he is accused or suspected of commission;
- (vi) The application is disposed of accordingly.

(A.M.BADAR, J.)