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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.1095 OF 2016

Shaikh Shafique Shaikh Bashir
and anr

.... Applicants

V/s.

The State of Maharashtra

.... Respondent

Mr. N.R.Bubna, for the Applicant.

Mr. Arfan Sait, APP for the Respondent State.

CORAM : A. M. BADAR, J.

DATE : 15th JULY, 2016.

P.C. :

1. The applicants/accused in Crime No.120 of 2015, registered with Pawarwadi Police Station, Malegaon, District: Nashik, for offence punishable under Sections 302, 201, 306, 498A, 504, 506 r/w 34 of the Indian Penal Code, by this application are praying for releasing them on bail, during the pendency of trial.

2. Heard the learned counsel for applicants. He argued that there is no eye witness to the incident in question. No statements of neighbourers came to be recorded by the Investigating Officer. In his submission, the incident occurred in populous locality. The applicants were working in the fruit market and were not present at the place of

incident.

3. I also heard the learned APP. He argued that the incident in question happened at the house of present applicants and deceased Shabana was in the custody of present applicants. As such it was duty of applicants to explain how she died in their house. The learned APP pointed out that postmortem report which prima facie shows death was homicidal with antemortem injuries.

4. With the assistance of learned counsel appearing for the parties, I perused the chargesheet. The incident in question happened on 16.12.2015 in the residential house of deceased Shabana. Shaikh Shafique Shaikh Bashir and Shaikh Yasin Bashir, the present applicants are brothers of her husband Salim. The postmortem report shows that Shabana suffered injuries by hard and blunt objects to her intestine and brain. Her dead body was found to be 100% burnt. Souls of the dead body were also found to be burnt.

5. Perusal of the F.I.R. goes to show that deceased Shabana married Shaikh Salim on 29.5.2010. It is seen from the papers of investigation that husband and in-laws of Shabana used to subject her to cruelty by asking her to bring money from her mother for purchasing house. It is seen that on 16.5.2014, Shabana has lodged report with police. There was separation for sometime followed by subsequent reunion. The

chargesheet shows that on 1.12.2015, accused husband and co-accused had been to the house of mother of Shabana for demanding money, ultimately on 16.12.2015, died.

6. True it is that Shabana was residing with her matrimonial relatives including present applicant at Gulsher Nagar where she died, but the incident in question allegedly took place at about 11 a.m. of 16.12.2015. The chargesheet does not reflect whether present applicants were present in the house at the time of incident in question. Nothing came to be recovered at the instance of present applicants. Considering the nature of evidence against applicants, their pre-trial detention is not warranted and as such order :-

Order

- I) The application is allowed.
- II) Applicants arrested in connection with above offence, be released on bail on their executing P.R. Bonds in the sum of Rs.10,000/- by each of them and on their furnishing sureties in the like amount by each of them.
- III) The applicants shall not, directly or indirectly, make any inducement, threat or promise to any persons acquainted with the facts of the case so as to dissuade them from disclosing such facts either to the Court or to any police officer.
- IV) The applicants shall attend the trial scrupulously and shall co-operate the trial Court in expeditious disposal of the case.

V) The applicants shall not tamper with the prosecution evidence in any manner.

[A. M. BADAR, J.]