

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

CRI. BAIL APPLICATION NO. 1250 OF 2016

Akshay Dashrat Gade

... Applicant.

V/s.

The State of Maharashtra

... Respondent.

Mr. Vikas B. Shivarkar, Advocate for the Applicant.

Mr. S. S. Pednekar, A.P.P. for the Respondent – State.

CORAM : A. M. BADAR, J.

DATE : 13th JULY, 2016

P.C. :

1 Heard the learned counsel appearing for the applicant/accused. He submitted that perusal of the charge-sheet would show that there is no evidence against the present applicant for connecting him to the offence punishable under section 302 of the Indian Penal Code. He argued that statement of Bhika Pawar and Ashok Malche shows that at the time of the incident in question the present applicant was in the field.

2 I have also heard the learned APP for the State. According to him, the statement of both the witnesses goes to show that subsequently the present applicant has left for his home where the incident had happened. Learned APP argued

that there were three ligature marks on the neck of the dead body indicating that the death was homicidal.

3 Perused the FIR. On 24.04.2012 deceased Rupali, daughter of informant-Babasaheb Bhikaji Kumbharkar, married Chetan Gade. The applicant Akshay Gade is brother of Chetan Gade and brother-in-law of Rupali. According to the prosecution case Rupali was done to death on 23.08.2015 at her residential house by the present applicant and co-accused, who are matrimonial relatives of Rupali. Perusal of the FIR lodged by the father of the deceased shows that after marriage, Rupali delivered a male child in March, 2015. Allegations are to the effect that the accused persons were demanding Rs. One lakh from Rupali for purchasing pick-up van and they were insisting her to bring one tola of gold from her parental relatives. So far as cruelty is concerned, averments are to the effect that the accused persons were giving taunts to Rupali and she was not provided with food for one or two days.

4 Perusal of the chargesheet shows that on 23.08.2015 Rupali died unnatural death at her matrimonial house. Postmortem report shows that death was caused by asphyxia due to strangulation. Three ligature marks were found on the neck of the dead body. Spot panchanama shows that on 23.08.2015 itself police went to the house of the accused persons and accused-Chetan Gade showed angle iron

rod of the roof, where Rupali was found hanging. On production, the same came to be seized while recording spot panchanama.

5 Statement of witness-Dnyaneshwar Waste shows that at 1.05 p.m. on 23.08.2015 he received call from the present applicant. Dnyaneshwar Waste was asked to rush to his house by the present applicant. Statement of Dnyaneshwar further shows that when he visited the house of the accused persons, he saw dead body of Rupali lying in the hall and accused Chetan seated there. Dnyaneshwar saw that thereafter the present applicant-Akshay Gade came at the house. Statement of Bhika Pawar and Ashok Malche, who were working as labourers in the field of the accused persons, goes to show that in the afternoon on 23.08.2015, the present applicant Akshay was present in the field when co-accused Chetan left his house.

6 Considering this nature of evidence against the present applicant, his pre-trial detention after filing of the chargesheet is not warranted and, therefore, the following order :

ORDER

- i. The application is allowed.

- ii. The applicant/accused in Crime No. I-99 of 2015 for the offences punishable under sections 302, 498(A), 304(B) read with section 34 of the Indian Penal Code, registered with Vani Police Station, Dist. Nashik, be released on bail on executing PR Bond in the sum of Rs. 10,000/- and on furnishing solvent surety in the like amount.
- iii. As a condition of this order, the Applicant should co-operate with the trial court in expeditious disposal of the trial.
- iv. In addition, the Applicant/accused is directed that he 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 such person from disclosing such facts either to the Court or to any police officer and that applicant shall not tamper with the prosecution evidence in any manner.
- v. The applicant should not commit any offence of similar nature in future.
- vi. The bail application is disposed of accordingly.

(A. M. BADAR, J.)