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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.1258 OF 2016

Eknath Shivaji Dhumbre	..Applicant.
V/s.	
State of Maharashtra	..Respondent.

Mr.Aaditya A. Gore for the applicant.

Mr.Deepak Thakery, APP for respondent-State.

CORAM : A.M.BADAR, J.

DATED : 19TH JULY, 2016

P.C. :-

1. The applicant / accused in Crime No.174/2016 for offences punishable under section 302 and 498A of the Indian Penal Code registered with Aalephata Police Station, District Pune by this application is seeking bail.

2. Heard the learned counsel for the applicant / accused. In his submission, there is no prima facie evidence to connect the applicant / accused with the crime in question. The learned APP opposed the application.

3. Perused the charge-sheet. The crime in question came to be registered at the instance of Eknath Chimaji Padekar – brother of deceased Nirmala Shivaji Dumbre. The informant averred that there was thirteenth day ritual at the parental house of deceased Nirmala on 6th December, 2015. The applicant, who is husband of deceased Nirmala, attended the ritual but he was not accompanied by Nirmala. The informant further averred that upon being asked about absence of Nirmala, her husband i.e. the applicant gave evasive reply. The informant further averred that at about 8.00 p.m. on that day, he was informed that Nirmala died. According to the informant, he then reached to the house of the present applicant and saw Nirmala lying dead in the kitchen of the house with ligature mark on her neck.

4. During investigation, the Investigating Officer has recorded statements of witnesses. It is seen that deceased Nirmala was residing in her matrimonial house with her husband i.e. the present applicant, her in-laws namely Lata and Shivaji, her two sons Shreyas and Pranav. Sunil Dhumbre – brother-in-law of Nirmala also seems to be residing in other part of the house with his family. Balaji is brother of Shivaji –

father of the present applicant. Balaji along with sons Bhaskar and Dnyaneshwar as well as other family members are next door neighbourers of the present applicant as well as Nirmala. Statement of all neighbourers appears to have been recorded by the Investigating Officer, except statements of Shreyas and Pranav – sons of the present applicant and deceased. It is seen from the statements of these witnesses that deceased Nirmala was very much present in her matrimonial home on 6th December, 2015. Statement of Lata – mother-in-law indicates that she left the house at about 4.00 p.m. That statement does not indicate that the present applicant was present at the house. Statement of Lata goes to show that on her return, she did not notice presence of Nirmala in the house. She, therefore, searched for Nirmala and enquired even with her neighbourer Bhimbai. Ultimately, Lata noticed Nirmala hanging by the roof of Mezzanine floor of the house. Similar is the statement of Shivaji. He also stated that when he returned to his house, he noticed his wife Lata and grandsons shouting by saying that look what Nirmala has done. Witnesses Bhaskar Dumbre, Meera Dumbre, Sujata Dumbre, Sameer Dumbre and Mangesh Dumbre are stating about the incident on similar lines. It is seen that Shreyas,

who is the son of deceased had informed about the incident to his neighbours. Statements of these witnesses does not shows that the applicant was present the house when the incident took place. It is seen from the papers of investigation that Aditya Dumbre lifted the dead body and Sunil Dumbre removed the ligature. Then they all took the dead body of Nirmala to the kitchen.

5. Some scratch marks are seen on the dead body but the opinion of the medical expert is to the effect that those nail marks are not caused while offering resistance.

6. Considering this nature of evidence against the applicant, he deserves to be released on bail during the pendency of trial. Hence the order :-

- (i) The application is allowed;
- (ii) The applicant / accused in Crime No.174/2016 for offences punishable under section 302 and 498A of the Indian Penal Code registered with Aalephata Police Station, District Pune be released on bail on executing P.R. bond in the sum of Rs.10,000/- with one or more

surety in the like amount;

- (iii) 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.)