

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2054 OF 2016

Ganesh Rabhaji Naikodi

.....Applicant

V/s.

The State of Maharashtra and another

....Respondents

Ms. Nagma Tandon Advocate for Applicant.

Mr. Rajan Salvi APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : 18th NOVEMBER, 2016.

PC :

1) Heard. This is an application under section 439 of the Code of Criminal Procedure, 1973. Applicant herein is arrested on 26/05/2016 in crime no. 86 of 2016 registered at Narayangaon Police Station for offence punishable under section 302, 201, 494, 498-A, 323, 504, 506 r/w 34 of the Indian Penal Code.

2) It is the case of the prosecution that on 26/05/2016, Kalpesh Dhamdhere lodged a report at the police station alleging therein that his sister Surekha was married to brother of the present applicant namely Mangesh. It is alleged that Surekha was married to Mangesh on 25/12/2005. That Surekha

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was being ill-treated and harassed by all the members of her matrimonial family including present applicant. On 16/05/2016 Surekha had died in her matrimonial house. Initially, report was lodged under section 174 of Code of Criminal Procedure, 1973. After conducting post-mortem, it was revealed that cause of death is “Death due to strangulation”.

3) It is an admitted position that present applicant happens to be brother-in-law of the deceased Surekha. At the time of incident, she was in exclusive custody of her husband Mangesh who is lodged in jail and his application has been withdrawn.

4) The learned counsel for the applicant vehemently submits that applicant herein cannot be prosecuted for offence punishable under section 302 of the Indian Penal Code. At the most, he may be prosecuted under section 498 (A) of the Indian Penal Code. It is also submitted that the investigation is completed and charge-sheet is filed and further incarceration would be unwarranted and unjustified.

5) Taking into consideration the papers of investigation, cause of death and the relation between the present applicant and deceased, this court is inclined to grant bail. It is made clear that the observations made herein above

are prima facie in nature and restricted to an application under section 439 of Code of Criminal Procedure, 1973 and shall not be considered for quashing of F.I.R., discharge application or at the time of trial.

ORDER

- (i) Application is allowed.
- (ii) Applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs. 25,000/- with one or more sureties in the like amount.
- (iii) Applicant shall report to the police station as and when called.
- (iv) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)