

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

928 CRIMINAL APPLICATION NO. 1103 OF 2017

KALABAI NANDU PAWAR
VERSUS
THE STATE OF MAHARASHTRA

Shri. Joydeep Chatterji, Advocate, for applicant.

Shri. R.V. Dasalkar, Additional Public Prosecutor, for
respondent.

Coram: T.V. NALAWADE, J.

Date: 29 March 2017

ORDER:

1) The application is filed for bail. It is submitted that this is the first application filed for bail in this Court. Both the sides are heard.

2) This Court has carefully gone through the papers of investigation. Crime is registered on the basis of report given by the father of the deceased on 20-9-2016. The alleged incident took place on 16-9-2016 in the house of the husband of the deceased. The deceased has left behind one son about 8 years old. Allegations are

made that there was ill-treatment to the deceased from her husband and the relatives. Present applicant is stated to be first wife of the husband of the deceased. Allegations are made that in the incident dated 16-9-2016 during quarrel the husband asked present applicant to bring bottle of poison and when the bottle was brought the husband poured poison into the mouth of the deceased forcibly and in this incident, Sharda, daughter of present applicant, helped the husband. The deceased was first shifted to a private hospital then to Civil Hospital and again to private hospital.

3) This Court had directed the State to produce record of the treatment and information given to police by the hospitals. Such record is produced and it is of Krishna Hospital. The deceased was admitted in Krishna Hospital on 16-9-2016 and initial history was given as consumption of poison. This Court wanted to know as to whether the deceased was conscious at any time as the record is to the effect that she made oral dying declaration to her father and cousin brother.

4) There is also statement of the son aged about 8 year recorded by police and the statement of the said son recorded under section 164 of the Code of Criminal Procedure. The learned Additional Public Prosecutor submitted that this record is more than enough to make out a case for offence punishable under section 302 of the Indian Penal Code.

5) The material produced shows that when the incident took place on 16-9-2016 report was given on 20-9-2016. If such serious allegations were already made on 16 September 2016 itself, in ordinary course, it was for the father to give report immediately but that was not done. Further the record about the condition of the deceased right from the time of admission till her death needs to be seen carefully during trial. Though at one place there is mention that the patient was conscious when she was discharged, evidence on this entry will be required to be properly considered and appreciated. This Court is avoiding to say anything about this entry. Further if the deceased was conscious at any time and information at that time was supplied to police about the admission, in

ordinary course, the police ought to have taken steps to record statement. But there is no such record and statement available. The submissions made show that Sharda is granted bail. In view of these circumstances it is not desirable to keep the applicant behind the bars till disposal of the case filed against her.

6) In the result, the application is allowed. The applicant is to be released on bail in connection with Crime No.233/2016 registered in Partur Police Station, District Jalna for offences punishable under sections 302, 498, 304-B, 34 of the Indian Penal Code on her furnishing P.B. and S.B. of Rs.25,000/-. The applicant is not to tamper with prosecution witnesses. She is not to commit similar offence.

Sd/-
(T.V. NALAWADE, J.)

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