

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

CRIMINAL APPLICATION NO. 2713 OF 2017

Raju @ Shanu Nasruddin Khan ... Applicant

VERSUS

The State of Maharashtra ... Respondent

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Mr. N.S.Ghanekar, advocate for the applicant

Mr. A.R.Borulkar, A.P.P for respondent

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CORAM : K.L.WADANE, J.

DATED : 24th JULY, 2017

O R D E R :

Heard Mr. N.S.Ghanekar, learned counsel appearing for the applicant and Mr. A.R.Borulkar, learned A.P.P. for the respondent.

2. This is an application filed under the provisions of Section 439 of the Criminal Procedure Code in connection with Crime No. 4 of 2016, registered with Chalisgaon police station, District Jalgaon on 7.1.2016 stating therein that on 6.1.2016 at about 11.30 p.m. her husband Iqrar Khan came to house, stayed there for some time and on phone call he immediately took tiffin and went

out side. At that time he carried golden bangles and ear rings of the informant with him. He went on his motor cycle MH-19/AF-7845. He did not return, therefore, the informant tried to contact her husband on phone, but it was not responding. In the morning at about 8.30 a.m. one un-known person came to the house of informant and inquired about person by name Iqrar Khan. He informed that the motor cycle of Iqrar Khan is lying on the road. Therefore, informant and her son went to the spot and noticed that the motor cycle was lying there. She came to know that her husband was taken to Rural Hospital at Chalisgaon. She went to the police station and found injuries on the neck of her husband due to which he died.

3. Mr. Ghanekar, learned counsel appearing for the applicant points out that earlier the applicants had withdrawn the application for bail as report of Chemical Analyser was awaited.

4. Learned A.P.P. submits that there is evidence of recovery under Section 27 of the Evidence Act at the instance of applicant.

Except that no other circumstantial evidence is appearing against the applicant.

5. Mr. Ghanekar, learned counsel points out the report of chemical analysis, from which it is seen that knife allegedly used in the crime by the present applicant was sent to the Chemical Analyser for chemical analysis and for determination of blood on the knife and the blood group. From the report of Chemical Analyser, it appears that no blood is detected on Exh. 'A' knife. So, even accepting that the applicant has produced the knife under Section 27 of the Evidence Act, still, there is no further evidence to show that there was blood on the knife or the blood of the blood group of deceased was found on the knife. In view of above, prima facie, it appears that there is no sufficient evidence against the applicant to constitute offence of murder. The applicant is behind the bars for about 1½ year. Hence, the applicant can be released on bail.

6. Hence the following order.

- (i) Criminal Application is allowed.
- (ii) The applicant shall be released on bail in connection with Crime No. 4 of 2016, registered with Chalisgaon police station, District Jalgaon, on his furnishing P.R. bond of Rs. 10,000/- with one solvent surety in the like amount.

7. Criminal Application is disposed of.

(K.L.WADANE, J.)

dbm