

Anand

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

BAIL APPLICATION No.155 OF 2017

Kamalsing Prabhusing Rathod

.Applicant

Vs.

The State of Maharashtra

.Respondent

Mr.Rupesh A. Zade, Advocate, for the Applicant

Mr.S.S.Hulke, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 06.04.2017

P.C.

. Heard learned counsel for the Applicant and the learned APP for the Respondent – State.

2. By this Application, the Applicant seeks his enlargement on bail in connection with C.R.No.408 of 2016 registered with the Baramati Police Station, Pune (Rural), for the alleged offences punishable under Sections 302 & 498A of the Indian Penal Code.

3. Perused the papers. The Applicant was residing in a tenanted premises owned by Sanjay Haribhau Nimbalkar. The Applicant was residing in the said premises alongwith his wife-

Jyoti (deceased). There were other tenants who were also residing in the said building. According to the prosecution, the incident took place on 23.08.2016 at about 9.00 p.m.. It is alleged that the Applicant came to the house of Manjula Haryalkar, one of the tenants and informed her that his wife-Jyoti was still and there were no movements. Pursuant thereto, Manjula visited the house of Sakharbai Maruti Satpute, another tenant and informed her about the same. Accordingly, both the said ladies went to the house of the Applicant and found that Jyoti was lying on the bed and there were no movements. They immediately informed the said incident to the landlord-Sanjay Nimbalkar, who reached the spot and informed the police. Jyoti was found dead at the spot. The cause of death as stated in the post-mortem report shows that Jyoti died due to 'asphyxia due to smothering'. The statements of both the witnesses i. e. Manjula Haryalkar and Sakharbai Satpute are consistent. Both the said witnesses have stated that the Applicant would harass his wife and assault her after consuming alcohol. They have stated that even on the day of the incident, they had heard a quarrel between the Applicant and the deceased and that the Applicant was at home at the relevant time. The Applicant has also sustained an abrasion on his right hand on posterior aspect, possible due to the resistance

offered by the deceased.

4. Considering the material on record, this is not a fit case to enlarge the Applicant on bail. The Application stands rejected.

5. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

(REVATI MOHITE DERE, J.)