

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

**CRIMINAL APPLICATION NO. 113 OF 2017
IN
CRI. APPEAL ST.NO. 64 of 2017**

Mr. Ajay Atmaram Jadhav
@ Mohd. Mustafa Shaikh .. Applicant

Vs.

The State of Maharashtra .. Respondent

....
Ms. Gunjan Thakker i/b Mr. Rishi Bhuta Advocate for Applicant
Mr. H.J. Dedia A.P.P. for the State
....

**CORAM : SMT.V.K.TAHILRAMANI AND
REVATI MOHITE DERE, JJ.
DATED : FEBRUARY 24, 2017**

ORAL ORDER [PER SMT. V.K.TAHILRAMANI,J.]:

1 Heard both sides.

2 The applicant has been convicted and sentenced under Section 302 of IPC. The applicant is now seeking bail.

3 It is the prosecution case that the applicant strangled his wife Yasmin and committed her murder in the night between 16.12.2012 and 17.12.2012. The incident

occurred in the residential house where the applicant and his wife Yasmin (deceased) were residing.

4 The case is entirely based on circumstantial evidence. The evidence of PW 5 Patija shows that the applicant was married to her daughter Yasmin. Yasmin was telling the applicant i.e. her husband for doing some job, therefore, there were quarrels between the applicant and Yasmin. On 16.12.2012 at about 8 p.m. there was quarrel between Yasmin and the applicant. Yasmin was pregnant at that time. Patija's husband went to the house of the applicant and Yasmin and convinced the applicant to do some work and to take care of Yasmin. At that time, the applicant told that he would go for job from tomorrow and he would maintain Yasmin properly. Thereafter, Patija and her husband returned home. Shabir son of Patija, was watching T.V. in the house of the applicant. In the night at 11 p.m. Patija brought back her son Shabir from the house of the applicant and Yasmin. The house of the applicant was situated near the house of Patija. Patija has specifically stated that at that time Yasmin and the applicant were alone in the house. She has further stated that on

17.12.2012 at about 9 a.m. her daughter Nasima (PW 4) told her that Yasmin was killed by strangulation. When Patija went to the house of applicant, she noticed that the applicant was not present in his house.

5 The evidence of PW 4 Nasima shows that on 16.12.2012 there was quarrel between the applicant and deceased Yasmin. On 17.12.2012 when she went to the house of her mother Patija, she saw that door of the house of Yasmin was closed but there was no lock. When she opened the door of the house where the applicant and Yasmin were residing, she saw that Yasmin was lying on the floor with a blanket on her person. She tried to wake up Yasmin, but Yasmin did not respond. Nasima found that body of Yasmin was stiff and there was Odhni (Dupatta) tied around the neck of Yasmin and there were injuries on her face.

6 The evidence of PW 1 Mubarak who was the father of Yasmin, shows that his daughter used to often complain about the applicant. Mubarak has stated that on 16.12.2012 there was serious dispute and quarrel between the applicant and

Mubarak's daughter Yasmin who was the wife of the applicant. The applicant assaulted Yasmin, hence Yasmin was shouting. Therefore, he and his wife went to separate the quarrel. Mubarak told the applicant to look for a job. The applicant agreed to do the same. On the next day morning i.e. on 17.12.2012, Mubarak's daughter Nasima told him that Yasmin was killed and the applicant was not found in the house. When he visited house of Yasmin, he saw his daughter lying on the floor with knot of Dupatta around her neck and tongue was protruding out. There were injuries on her person. Mubarak tried to find the applicant but he could not find him anywhere.

7 Thus, the evidence of PW 1 Mubarak, PW 4 Nasima and PW 5 Patija if taken together, shows that the applicant and deceased Yasmin had big quarrel on 16.12.2012 at about 8 p.m.. The evidence of PW 5 Patija shows that at about 11 p.m. on 16.12.2012 the applicant and deceased Yasmin were the only persons in the house. The evidence of PW 1, PW 4 and PW 5 if taken together, shows that the next day in the morning, Yasmin was found lying dead in her house and she was covered with a blanket. The evidence of PW 3 Dr. Ghadge who

conducted post-mortem on the dead body of Yasmin, shows that the cause of death was "asphyxia due to ligature strangulation by other persons". If Yasmin had committed suicide by hanging herself, her body would not have been found lying on the floor covered with a blanket. The evidence of PW 3 Dr. Ghadge shows that it was a case of strangulation by another person. The applicant was the only person residing in the house along with the deceased. No other person was residing in the house. The circumstances which have been brought on record, prima facie, lead to inescapable conclusion that it was the applicant who strangled his wife Yasmin and caused her death and thereafter covered her body with a blanket and ran away. The circumstances prima facie link the applicant to the murder of his wife Yasmin.

8 Looking to the evidence on record, we do not think that this is a fit case to grant bail, hence, application for bail is rejected.

[REVATI MOHITE DERE, J.]

[SMT.V.K.TAHILRAMANI, J.]