

Anand

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

BAIL APPLICATION NO. 1571 OF 2017

Prashant Gangadhar Kadam .Applicant

Vs.

The State of Maharashtra .Respondent

Mr. R. N. Gite i/b. Mr. Sunil Ghatge, Advocate, for the Applicant
Mr. S. R. Agarkar, APP, for the Respondent – State

CORAM : A.S.GADKARI, J.

DATE : 09.11.2017

P.C.

. This is an application under Section 439 of Cr. P.C. for bail in CR No. 278 of 2016 registered with Malegaon Police Station, Nasik (Rural) under Sections 302, 498A r/w 34 of the Indian Penal Code.

2. It is the prosecution case that the deceased namely Smt. Shital Kadam was the wife of Applicant. That the Applicant alongwith other co-accused, used to cause cruelty and harassment to the deceased and on 10.12.2016 before 8.15 p.m. committed murder of Smt. Shital Kadam. It is the further case of prosecution that the accused persons have administered poison to the deceased, strangulated her and caused disappearance of evidence. During the course of investigation, the Applicant came to be arrested on 12.12.2016. After completion of

investigation, police have submitted charge-sheet.

3. Perused the charge-sheet. The record indicates that the deceased – Smt. Shital Kadam was brought to the hospital by the Applicant and other relatives in an unconscious stage and she expired within 3 – 4 hours thereafter. The post mortem notes indicate that there were certain injuries on the person of deceased including one ligature mark and scratch on the neck. The record further indicates that the first informant – Sharad Devare, the father of deceased in his supplementary statement dated 25.02.2017 has stated that the Applicant instead of depositing an empty bottle of poison has deposited a sealed bottle with the Doctors. The Viscera report of deceased was preserved as it was informed to the Medical officer that the deceased has consumed poison namely 'Turbid'. After receipt of Viscera report, the Medical officer has given his opinion as to the final cause of death as “cardiorespiratory failure due to ingestion of poisonous substance”. The Chemical Analyzer's report indicates that traces of said poison were found on the clothes of deceased.

4. After perusing the record, prima facie, it appears that the theory propounded by the prosecution of administering poison and strangulating deceased cannot go together as it is the specific case that deceased was admitted to the concerned hospital in an unconscious

condition and was alive at the relevant time.

5. In view of the above, Applicant can be released on bail.

Hence, the following Order:

(i) The applicant be released on bail in CR No. 278 of 2016 registered with Malegaon Police Station, Nasik (Rural) on his furnishing PR bond of Rs.25,000/- with one or two solvent local sureties in the like amount;

(ii) After his release from the jail, the applicant shall attend the concerned Police Station every 1st Monday of the month between 10.00 a.m. to 12.00 noon till the conclusion of trial;

(iii) Applicant shall also attend all the dates before the trial Court;

(iv) Applicant shall not tamper with the evidence and/or influence the prosecution witnesses.

6. Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)