

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (BA) NO.1043 OF 2016

Ashok S/o Khushabraoji Ladikar

..VS..

State of Maharashtra, through Police Station Officer, Hingangthat Police Station,
District Wardha

.....
Office Notes, Office Memoranda of Coram,
appearances, Court orders or directions
and Registrar's orders
.....

Court's or Judge's Order

Shri M.B. Naidu, Counsel for the Applicant.

Shri A.V. Palshikar, Addl.P.P. for the Non-applicant/State

CORAM : P.N. DESHMUKH, J.

DATED : FEBRUARY 24, 2017.

This application is filed for bail in Crime No.288 of 2016 registered for the offence punishable under Section 302 of the Indian Penal Code by husband of deceased Sudha.

Heard learned counsel for the applicant and learned Additional Public Prosecutor.

It is submitted on behalf of applicant that admittedly applicant was present in the house where applicant's wife was found dead. However, according to the contents of report immediately lodged by cousin brother of deceased, she is stated to have committed suicide. Learned counsel for the applicant has not disputed fact of presence of applicant at the scene of offence thereby contending that applicant's presence was natural since it is his own house. However,

applicant's involvement is denied contending that in view of contents of report, possibility of deceased committing suicide cannot be ruled out. It is further contended that as case of prosecution is based on circumstantial evidence alone, having no eyewitnesses to establish involvement of applicant to have committed murder of deceased, application is prayed to be allowed by imposing suitable conditions. It is also contended that in fact applicant himself was not keeping well on the day of incident as well as few days prior thereto and as such there is least possibility of his causing murder of his wife more particularly when there was no dispute between them of any type.

Learned Additional Public Prosecutor opposed the application as per its reply on record and by referring to contents of inquest panchanama, postmortem note has submitted that as strangulation mark is clearly visible around the neck of deceased, it cannot be case of commission of suicide. By referring to statements of relations as well as neighbours, it is submitted that on their reaching inside the house of applicant though he was very much found present, applicant did not open the door to allow such persons to enter in the house where on entering, they had found applicant's wife lying dead in a room where applicant was present. It is, therefore, submitted that above circumstance establishes involvement of applicant alone

and application is, therefore, prayed to be rejected.

Learned counsel for the applicant at this stage contended that in view of case of prosecution as above, though applicant may not have intention to cause murder of deceased, if at all he has committed any act it might be under the passion of anger and as such applicant's case in that view may fall for a lesser offence than causing murder and has thus prayed that application on that count be allowed.

In the background of submissions advanced as aforesaid, on perusal of report dated 15.2.2016 by Vinod, cousin brother of deceased, reveals that on the day of incident, while he was in his field in the evening, he was telephonically informed by some villagers that there was crowd in front of house of applicant who are attempting to open his house and applicant is taken to hospital in a auto-rickshaw while his wife had committed suicide by strangulation. On the basis of such report, it appears that A.D. was initially registered and was investigated.

During the course of investigation, inquest carried out reveals that there was circular ligature mark around the neck of deceased having blood stains. Similar are surface injuries found on the person of deceased wherein it is certified that injury No.1 sustained by deceased was complete encircling ligature mark around the neck, horizontal, with circumference

28.7 c.m. and 4.00 c.m. in width which was more prominent on the right side. The cause of death is stated to be asphyxia due to strangulation.

In view of contents of inquest panchanama and postmortem report, thus there is no room to doubt that deceased died of unnatural death due to strangulation and having considered fact that ligature mark was seen completely around the neck, *prima facie* it can be said that it is no case of suicide.

Spot panchanama reveals that along with other incriminating articles one rope came to be seized which during the course of investigation was forwarded for its examination to medical officer who on examining rope certified that same is stained with blood at places having hair entangled in it and has opined that same can be used for strangulation. Above circumstances thus established chain of events which are directly attributed towards applicant. Along with rope, one white coloured scarf is also seized which is also sent for its examination and is certified to have blood stains and is stated to be used for strangulation.

Statements of Sanjay, Vaishali, and Ravindra when perused established fact of presence of applicant in the house where his deceased wife was found dead. From statements of these witnesses it is material to note that in spite of them along with other neighbours, and residents of locality giving shouts to

applicant to open the door for a considerable time, since he did not respond, his house was required to be broken and, thereafter, these witnesses along with other residents of locality entered house of applicant. Above stated conduct of applicant also established his involvement in the crime as there is other no reason for him not to open the door for a long period.

In view of facts as aforesaid, though there are no eyewitnesses, sequence of events as aforesaid, *prima facie* established involvement of applicant from the above chain of events. In that view of the matter, application is liable to be rejected. However, considering facts as stated on behalf of applicant as aforesaid, following order needs to be passed in the interest of justice.

ORDER

1) Criminal application is rejected.

2) Learned Sessions Judge who is ceased with the sessions trial arising out of Crime No.288 of 2016 registered by Hinganghat Police Station, District Wardha of which charge-sheet is filed on 13.5.2016 before the competent Court shall make an endeavour to dispose of the case within a period of three months from the date of framing of charge.

3) Criminal application is disposed of accordingly.

4) Registrar Judicial to communicate this order to the concerned Court.

JUDGE

!! BRW !!

C E R T I F I C A T E

I certify that this Order/Judgment uploaded is a true and correct copy of original signed Order.

Uploaded by : Bhushan R.Wankhede.
(Personal Assistant)

Uploaded on :- 27/2/2017