

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

**CRIMINAL APPLICATION NO.88 OF 2018
IN
CRIMINAL APPEAL NO.429 OF 2016**

Samitkumar Akhilesh Kumar Yadav Applicant

versus

The State of Maharashtra ... Respondent

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- Mr.Shirish Gupte, Senior Advocate i/b. Mr.Prem Keshwani, a/w Ms.Supriya Kale, Advocate for the Applicant.
- Mr.H.J. Dedhia, APP for the State/Respondent.

**CORAM : B. R. GAVAI &
SARANG V. KOTWAL, JJ.
DATE : 05th JULY, 2018.**

P.C. :

1. This is an Application for suspension of sentence and grant of bail during the pendency of the present Appeal.
2. The Applicant along with his father and mother have been convicted for the offences punishable u/s 302 as well as 304-B of IPC.

3. It is the prosecution case that in the midnight of 16th and 17th April 2012, the Accused first killed the deceased and thereafter made a show of hanging, so as to show that it was a suicidal death.
4. Heard the learned Senior Counsel Mr.Shirish Gupte for the Applicant and Mr.H.J. Dedhia, the learned APP for the State. As held by the Hon'ble Supreme Court in the case of Niranjan Singh and another Vs Prabhakar Rajaram Kharote and others reported in (1980) 2 SCC 559, the detailed elaboration of evidence should be avoided at the stage of grant of bail.
5. The Applicant was married to the deceased about 11 months prior to the incident. The perusal of the evidence would reveal that there used to be dispute between the parents of the Applicant and the deceased on various grounds, including the deceased coming late at home, not giving details of her salary etc. It is the prosecution case that on account of these disputes

all the three accused used to ill-treat her. It is the contention of learned APP that the Applicant also used to support his parents in illtreating the deceased.

6. The perusal of the evidence of P.W.1 Chandrahas Yadav, the father of the deceased, as well as P.W.23 Sneha Prabhakar Trivedi would reveal that on the date of incident the deceased was somewhat tense. It would further reveal that deceased had telephonic conversation with her father as well as said Sneha Trivedi at around 11.00 in the night. The evidence of P.W.22 Rajendra Balu Shelke would reveal that the deceased had come to the house at around 22.13.14 hours. The Applicant had arrived at his house on 17/04/2012 at around 00.16.23 hours. At 00.43.43 hours he was seen coming out of his house and rushing to the house of the said witness as well as the house of Neeraj Wankhede.

7. The evidence of P.W.21 Dr.Basavraj Sanganath Lohare would reveal that there is no evidence of external injuries on the

person on the deceased except the ligature marks. His evidence would further reveal that there was no evidence of throttling and smothering. His evidence further reveals that he neither found any post-mortem injuries nor any signs of poisoning. The evidence of this witness would also reveal that the possibility of the deceased suffering from Lymphocytic Thyroiditis and resultantly having depression also cannot be ruled out. The evidence of P.W.23 Sneha Trivedi would further reveal that the last message that she received was at 11.22 p.m. wherein the deceased had stated that “Sneha thanks for being there and tell Ayush as well”.

8. Taking into consideration the entire evidence, the possibility of suicide cannot be ruled out. Rather the perusal of the evidence would reveal that the case would lean towards the suicidal death. The conviction is not u/s 306 of IPC.

9. The Applicant has undergone the custody for a period of 6 years and 2 months. Taking into consideration the huge

pendency of the Appeals, there is no possibility of Appeal being heard on merits in near future. In that view of the matter, we find that this Application deserves to be allowed.

10. The order of sentence as recorded in Judgment and Order dated 11/05/2016 is suspended. The Applicant is directed to be released on bail on furnishing the bail bond in the sum of Rs.25,000/- with one or more sureties in the like amount.
11. The Applicant shall report to the Kharghar Police Station on first Sunday of every month.
12. The Applicant shall not leave India without prior permission of the Court.

(SARANG V. KOTWAL, J.)

(B. R. GAVAI, J.)