

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

BAIL APPLICATION NO.1144 OF 2017

Mangesh Rabhaji Naikodi Applicant/Accused

Vs.

The State of Maharashtra Respondent/
Complainant.

Mr. Aniket U. Nikam I/by Ms. Nagma Tandon for the Applicant.
Mr. Rajan Salvi, APP for the State.

Coram : Smt. Sadhana S. Jadhav, J.
Date : 6th June, 2018

P.C.:

1 Heard the learned counsel for the applicant and the
learned APP.

2 This is an application under Section 439 Code of Criminal
Procedure. The applicant herein is arrested on 26th May, 2016 in
Crime No.86 of 2016, registered at Narayangaon Police Station,
Pune, for the offences punishable under Sections 302, 201, 494,
498A, 323, 504, 506 read with 34 Indian Penal Code.

3 Learned counsel for the applicant argued the matter on merits and had urged before this court that the applicant was not at home when the incident had occurred and when he entered in the room, he saw his wife hanging and thereafter had called his brother. He also pointed out the statements of the children of the applicant, who have candidly stated that there were quarrels between the father and mother. It is a matter of record that the brother of the applicant was also arrested on 26th May 2016. The post mortem notes clearly indicate that the cause of death of Surekha is death due to strangulation. Earlier the brother of the applicant namely Ganesh Naikodi had approached this court by filing Criminal Bail Application No. 2054 of 2016 and the present applicant had filed Criminal Bail Application No. 2051 of 2016. Both the applications were heard by this court (Smt. Justice Sadhana S. Jadhav). This Court had granted bail in favour of Ganesh Naikodi and in the said application, this court has specifically observed in paragraph 3 as follows :

“It is an admitted position that the present applicant happens to be brother-in-law of the deceased Surekha. At the time of incident, she was in exclusive custody of her husband,

Mangesh who is lodged in jail and his application has been withdrawn”.

4 The learned counsel for the applicant had withdrawn Criminal Bail Applicatin No.2051 of 2016. In fact, there is no change in circumstance. Besides that Mr. Nikam, arguing for the applicant was not aware about the withdrawal of the application when the learned APP had pointed out that the earlier application filed by the present applicant was withdrawn on 18th November 2016. In fact it was the duty of the briefing counsel to inform Mr. Nikam, arguing counsel that the application was earlier withdrawn. In fact, according to the learned APP, this would amount to mis-leading the court i.e. to proceed with the hearing of the application on merits. Taking into consideration the fact that there has been suppression of facts, it is not necessary to hear the application and decide the same on merits. This court had already observed that it is a case of custodial death and the same can be appreciated only at the time of trial.

5 With these observations, the application stands dismissed.

6 Copy of this order be sent to the Sessions Court, Khed,
(Sessions Case No.129 of 2016).

(*Smt. Sadhana S. Jadhav, J*)