

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2839 OF 2017**

Gulab Ghudubhai Nadaf
Versus
The State of Maharashtra

Applicant

Respondent

Mr. Shriram S. Chaudhari, for the applicant.
Ms. Veera Shinde, APP, for the State.
Mr. B.D. Koli, PI, CID, Nasik.

**CORAM : SMT. SADHANA S. JADHAV, J.
DATE : 7th February, 2018.**

P.C. :

1. Heard. This is an application under Section 439 of Cr.P.C. The applicant herein is arrested on 17.2.2017 in Crime No.101 of 2017 registered at Solapur Taluka Police Station for the offences punishable under Sections 302, 304-B, 498A read with Section 34 of the Indian Penal Code. The investigation is completed and charge-sheet is filed.
2. It is the case of the prosecution that on 17.2.2017, Kamal Nadaf lodged a report at the police station alleging therein that his daughter Rubina was married to the present applicant on 31.7.2016. Rubina was treated properly in her matrimonial house for two months and thereafter, the applicant and his parents were demanding money for construction of the

house. Rubina was being humiliated and meted with ill-treatment and cruelty at the hands of her husband and in-laws. On 8.2.2017, the applicant had dropped his wife Rubina to the house of the complainant as she was carrying pregnancy. The applicant had informed his father-in-law that she was having abdominal pain and therefore, she should reside with her parents. Rubina had disclosed to her parents that her husband is suspecting her character and had also claimed that she has conceived pregnancy from some other person and, therefore, had assaulted her on her abdomen with fist and kick blows. On 14.2.2017, Rubina was taken to the Kumthekar Hospital. she was prescribed bed rest. On 16.2.2017, the applicant has been to the house of the first informant and had insisted upon taking her to the matrimonial home. The first informant was not at home and had requested his son-in-law to wait till he returns. at about 3.30 p.m., he had requested the applicant that he shall not take away Rubina till she delivers the child. However, he had raised a quarrel and had taken away his wife to the matrimonial home on the motor-cycle. In the evening at about 7.30 p.m. the first informant had called upon his daughter to know about her well-being. Thereafter, at about 10 p.m. also he had talked to his daughter and she had informed her father that they were retiring for sleep after their

dinner. At about 1.30 a.m., the applicant had called upon the father-in-law and informed him that Rubina was vomiting and had loose motions and therefore he is taking her to Markandey Hospital and he may visit the same if he wants to. Soon thereafter, the applicant had called upon the first informant and informed him that Rubina has expired. The first informant has suspected the foul play and had therefore approached the police station and lodged a report.

3. In the course of investigation, it has transpired that the applicant had taken Rubina to Markanday Hospital. He had taken her in the outpatient department. After registration, the patient was not found. The certificate issued by Markanday Hospital shows that probably the relatives had suspected that the patient has died and therefore had left the hospital with the patient.

4. In the course of investigation, the statement of one Kailash Javle was recorded on 22.2.2017. he had disclosed to the police that on 16.2.2017, at night, the present applicant had called upon him and told him that his wife needs to be taken to Solapur Civil Hospital as she was not keeping well. They had been to Markanday Hospital. The applicant had asked Javle to wait for some time and after half an hour he returned only to

inform him that his wife had died and the body should be taken to the village and then the dead body was taken to the Village Baramani.

5. The learned counsel for the applicant submits that in fact they had suspected that she must have died and therefore taken her for better treatment to Civil Hospital. The said statement would be falsified by the statement of Javle. The autopsy was conducted on the dead body which would reveal that the deceased was carrying pregnancy of more than 7 months at the time of incident. The cause of death could not be ascertained and therefore, the viscera was sent for histopathological report. It is pertinent to note that Rubina had died in the intervening night of 16th February and 17th February, 2017 and the post-mortem was conducted on the same day i.e. 17.2.2017 at about 2.15 p.m. Rigor mortis was well marked. There was postmortem lividity. Histopathological report shows that the cause of death was Oedema along with Pulmonary Oedema.

6. The learned APP has drawn attention of this Court to the Inquest Panchnama which shows that there was reddish marks on the neck and on the left arm. The learned counsel for the applicant submits that the said marks were not found while conducting autopsy. In the Inquest panchnama, the applicant and his parents had informed the Inquest panchas

that on 17.2.2017, in the morning at 8 a.m., she had fainted and fallen unconscious and therefore she was taken to the Civil Hospital, Solapur where she was declared dead. It is apparent that the applicant and his parents were misleading the investigating agency just as they had misled the first informant as she was suffering from vomiting and loose motions and therefore she was taken to Markanday Hospital. It is pertinent to note that no medical officer had declared Rubina dead.

7. The marriage was hardly 9 months old. She was carrying pregnancy of 7 months. She has died in suspicious circumstances in her matrimonial home while she was in the custody of the applicant in the intervening night of 16.2.2017 and 17.2.2017. The Inquest panchnama and the Certificate issued by Markanday Hospital speaks volume for itself. The conduct of the applicant will have to be considered under Section 8 of the Indian Evidence Act at the time of trial. It is in these circumstances that the applicant does not deserve to be enlarged on bail.

8. Hence, the application being sans merits, stands rejected.

(SMT. SADHANA S.JADHAV, J.)