

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1523 OF 2016**

Taysin Jamal Bawadekar	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Anand S. Patil for the Applicant

Mr. Vinod Chate, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.
THURSDAY, 18th JANUARY, 2018

P.C. :

1 Heard learned counsel for the parties.

2 By this application, the applicant has impugned the order dated 20th June, 2016 passed by the Additional Sessions Judge, Kolhapur, by which the applicant's application (Exhibit 19) in Sessions Case No. 8 of 2014, seeking discharge, came to be rejected.

3 Learned counsel for the applicant submits that the prosecution case rests on circumstantial evidence and that there are no circumstances to

connect the applicant with the alleged murder. He submitted that considering that there were no circumstances to connect the applicant with the alleged offence, the applicant be discharged from the said case.

4 Learned A.P.P opposed the application. He submitted that although the prosecution case rests on circumstantial evidence, there are circumstances which connect the applicant to the alleged offence i.e. under Section 302. Learned A.P.P relied on the statement of Arinjay Shetye in support of his submission.

5 Perused the papers. The applicant was arrested in connection with C.R. No. 190 of 2014 by the Shahupuri Police Station, Kolhapur for the alleged offence punishable under Section 302 of the Indian Penal Code i.e. in connection with the death of one Nasir Yusuf Qazi on 20th June, 2016. Admittedly, the death of Nasir Qazi was an unnatural death i.e. the deceased died as a result of asphyxia due to smothering. Pursuant thereto, the deceased's son lodged an FIR as against the unknown persons. During investigation, the applicant was arrested, as one of the witness had

disclosed the applicant's name. Investigation revealed that the applicant was in a relationship with the deceased and on the date of incident, the deceased had called the applicant to his house where he was found dead subsequently. The Chemical Analyser's report shows that alcohol was found in the blood of the deceased. The deceased was also found in a naked condition and the post-mortem revealed the cause of death as “asphyxia due to smothering”. One of the witness i.e. Arinjay Shetye had seen the applicant leaving the house of the deceased around the time when the incident happened.

6 Considering the aforesaid, it cannot be said that there is no material to proceed as against the applicant warranting her discharge. Accordingly, no interference is warranted in the impugned order dated 20th June, 2016 passed by the Additional Sessions Judge, Kolhapur, by which the applicant's application (Exhibit 19) in Sessions Case No. 8 of 2014, seeking discharge, came to be rejected.

7 Application is rejected.

8 It is made clear that all observations are *prima facie* for the purpose of deciding this application and the learned Judge shall conduct the case on its own merits, uninfluenced by any observations made in this order.

REVATI MOHITE DERE, J.