IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2998 OF 2017

Javed Badalu Pathan. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Mr. Rupesh Atul Zade, advocate for Applicant.

Mr. S.H. Yadav, APP for State.

CORAM : SMT.SADHANA S. JADHAV,J
DATE : FEBRUARY 2, 2018

P.C.:

1 Heard the learned Counsel for the applicant and the learned APP for state.

2 This is an application under section 439 of the Code of Criminal Procedure, 1973. The applicant herein is arrested on 24/6/2017 in Crime No. 282 of 2017 registered at Baramati Taluka Police Station for offence punishable under section 302, 323, 504 of the Indian Penal Code.

3 It is the case of the prosecution that on 24/6/2017 the applicant had approached Baramati Taluka Police Station and had informed that on that day in the morning his wife did not wake up despite several efforts. She is motionless. On the basis of his report initially A.D. No. 34 of 2017 was registered.

4 The body was sent for post mortem. While conducting autopsy on dead body it is revealed that the deceased had sustained several contusions and abrasions all over her body. The cause of death is asphyxia due to strangulation. Hence, on 24/6/2017 police head constable Balasaheb Sonvalkar had lodged a report under section 302 of the Indian Penal Code.

5 This is a case of custodial death. Wife of the applicant was brutally assaulted before her death. The cause of death is strangulation. Time of death is shown as 6 hours from the last meal. Paper of investigation shows that there was quarrel between husband and wife over having dinner. She had refused to eat Chinese food

which he had brought and therefore, he was annoyed and assaulted her. The deceased was in the custody of the applicant.

6 The statement of Yogesh Mahipati was recorded on the same day i.e. on 24/6/2017. According to the witness, on 23/4/2017 at about 10.30 p.m. they had seen the applicant alongwith his wife on the terrace of the house. In the morning, the police had come at 6 a.m. and at that time they had realised that she had died.

7 In the above mentioned facts, the applicant does not deserve to be enlarged on bail. The application being sans merits stands rejected.

8 The observations are restricted to the application under section 439 of the Code of Criminal Procedure, 1973 and the trial court shall not be influenced by the same at the time of trial.

9 The application is disposed of accordingly.

(**SMT. SADHANA S. JADHAV,J)**