

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

BAIL APPLICATION NO. 957 OF 2019

Kusum Somling Doge	...	Applicant
Versus		
The State of Maharashtra	...	Respondent

Mr. Vikrant Phatate for the Applicant.
Ms. A.A. Takalkar, A.P.P. for the Respondent – State.
Mr. H.M. Shaikh, Head Constable, Vijapur Naka Police Station, Solapur City, present.

CORAM : P.N. DESHMUKH, J.

DATED : 22nd APRIL, 2019.

P.C. :

1 This application is for bail by accused involved in crime No.632 of 2018 registered with Vijapur Naka Police Station for the offences punishable under Sections 302, 201 r/w 34 of I.P.C.

2 Learned Counsel for the applicant submitted that except for suspicion there is absolutely no evidence of applicant's involvement in this crime who admittedly is husband of applicant and was addicted to liquor. It is submitted that during the course of investigation since it revealed that applicant and deceased had indulged in quarrel since deceased had consumed liquor and under the influence of liquor has assaulted applicant, she is involved in this crime after deceased committed suicide by hanging.

It is also submitted that in fact earlier present incident deceased had attempted to commit suicide. It is further contended that since investigation is complete application be allowed.

3 Learned A.P.P. from the copies of charge-sheet filed could not point out any other evidence against applicant, except for applicant's and deceased having quarrel prior to incident and as thus, contended that due to this quarrel, applicant strangled deceased husband. In support of this case, prosecution has relied upon postmortem notes, wherein cause of death of deceased is certified due to throttling. Perusal of document with the charge-sheet would reveals that report is lodged by Police Nayak, Buckle No.1649 attached to Vijapur Naka Police Station, Solapur, after investigating, A.D. No.101 of 2018 which was registered on receipt of information of deceased lying in unconscious condition in his house. During the investigation of A.D., statements of witnesses and neighbours came to be recorded including that of applicant. Based on these statements it is case of prosecution that in the evening at 5.00 p.m., deceased quarreled with her under the influence of liquor, therefore, she went out of the house when deceased closed the door. In the meantime, one Samu Kumbhar came to applicant and informed that her husband has hanged himself. Accordingly, applicant came home, removed her husband from the rope tied to the neck, with the help of other neighbours and relatives,

who on admission to hospital was declared dead. As per postmortem report cause of death is due to throttling. Merely because there was some incident of quarrel in the evening between deceased and applicant by itself is not sufficient to establish applicant's involvement as an assailant of deceased. Prima facie it is found that as cause of death of deceased is stated to be due to throttling by applicant is involved in this crime to have caused murder of her deceased husband by throttling, however, such case of prosecution do not stand for any reason as according to its own case when the incident took place, applicant got herself rescued from the clutches deceased, as was subject to assault by him and went out of house towards tower side to obtain help. As such, applicant was not in the company of deceased. In fact statement of Samu Kumbhar established that he had went to applicant towards mobile tower side and had informed her that her husband has hanged himself.

4 In view of above, following order is passed :

ORDER

(i) Applicant shall be released on bail in C.R. No.632 of 2018 registered with Vijapur Naka Police Station for the offences punishable under Sections 302, 201 r/w 34 of I.P.C., on his executing P.R. Bond in the sum of Rs.50,000/- with one surety in the like amount;

(ii) While on bail, applicant shall mark his presence with Vijapur Naka Police Station, District Solapur, quarterly on the first day of each such month between 10.00 a.m. to 1.00 p.m. pending trial;

(iii) Application stands disposed of as allowed in above terms.

(P.N. DESHMUKH, J.)