

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

CRIMINAL BAIL APPLICATION NO. 390 OF 2019

Ulhas Narhari Handore ... Applicant

Versus

State of Maharashtra ... Respondent

Mr. Ramesh Dube Patil a/w Ms. Khushbu Marwadi I/by Jay & Co. for Applicant.

Ms. J. S. Lohokare, APP for Respondent – State.

CORAM : NITIN W. SAMBRE, J.

DATE : MARCH 8, 2019.

P.C. :

. The Applicant is seeking regular bail in Crime No. I-2 of 2018 for an offence punishable under Section 302 read with Section 34 of the Indian Penal Code. After the arrest on 5th January 2018 and after custodial interrogation the Applicant came to be chargesheeted.

2. The prosecution case is, the Applicant was married to victim who had developed intimacy with the nephew of the Applicant. The Applicant based on the mobile recording has threatened his wife of dire consequences. The prosecution then alleged that in the aforesaid background, the Applicant has murdered his wife Sakshi.

3. The submissions of the learned Counsel for Applicant are, even if the entire prosecution story is accepted at its face value, at the most offence under Sections 306, 324 IPC can be inferred against the Applicant. According to him, the statement of the complainant and the other witnesses in categorical terms speaks of the background in which the incident had happened. That being so, the Applicant is entitled to be released on bail.

4. *Per contra*, the learned APP submits that the postmortem report speaks of the ante-mortem injuries. There is material to infer that the Applicant was in enmical terms with the deceased. That being so, it can be inferred that the Applicant has murdered deceased, as deceased was lastly seen in the company of the Applicant.

5. Having appreciated the material on record, what is noticed is, the victim had suffered ante-mortem contusion injuries over the face, chin, cheek, mouth etc. Apart from above, the cause of death as could be noticed from the postmortem report is "*Asphyxia due to smothering and ligature strangulation*".

6. In the aforesaid background, if the investigation against the Applicant is appreciated, the statement of the children who were present

at the scene of offence are not recorded. Apart from above, the angle as to the satisfaction of necessary ingredients of the offence punishable under Section 302 IPC are also not investigated into so as to *prima facie* infer that the applicant has murdered his own wife on the ground of she having illicit relation with his nephew.

7. In the aforesaid background having noticed that the necessary ingredients of the offence under which the Applicant is booked are not satisfied, in my opinion, the Application deserves to be allowed. Hence, the following order.

ORDER

- (A) The Applicant be released on bail in Crime No. I-2 of 2018 for an offence punishable under Section 302 read with Section 34 of the Indian Penal Code on executing PR Bond of Rs.25,000/- with one or more sureties in the like amount.
- (B) The Applicant shall neither tamper the evidence of prosecution nor influence the prosecution witnesses.

8. Criminal Bail Application stands disposed of accordingly.

(NITIN W. SAMBRE, J.)