

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

BAIL APPLICATION NO. 879 OF 2019

Khandu Madhav Gangurde

...Applicant.

Vs.

The State of Maharashtra

...Respondent.

Mr. S.P.Kadam I/by Sachin Kadam for Applicant.

Ms. S.S.Kaushik, APP for the Respondent/State.

Mr. Sansare, PN-581 from Chandwad Police Station present,

CORAM : P.N. DESHMUKH, J.

DATE : 02nd May, 2019

PC :

1. Heard learned counsel for applicant and learned APP. Perused the copy of charge sheet filed along with application. One of the co accused involved in CR No.174/2018 registered with Chandwad Police Station for the offences punishable under Section 304(B), 306, 498A read with 34 of the I.P.C. has filed this application for bail. Applicant is in custody since 1.11.2018 who is cousin of husband of deceased who

committed suicide on 30.10.2018 by hanging in her matrimonial home. Learned counsel for applicant by referring two other reports and statements on record as well as other documents which includes post mortem report, inquest panchanama and two medical certificates had submitted that from the report and statements of witnesses who are relatives of deceased Shakuntala. Applicant is stated to have bad eye upon her and that he had on some occasions demanded Rs.2.00 lacs from the parents of deceased for purchasing tractor and motor cycle. It is pointed out from the statement of witnesses that there are vague allegations on the point of alleged demand as well as on applicant's insisting deceased to keep physical relations with him.

2. By referring to inquest panchanama it is stated that there are two injuries found on the lower limb of deceased, there is no reference to any such injury on the lower limb except for one contusion and abrasion on right thigh. In the light of available evidence as afore stated applicant prayed that application be allowed.

3. Learned APP opposed application by referring to the report and statements of uncle, sister of deceased contending that these

documents established the applicant's involvement however, could not refer to any document with reference to query made by Investigating officer to Medical Officer about injuries found on the back and lower limb of deceased if they are antimortem injuries. In the circumstances, in the inquest panchanama, though there is reference of injuries of lower limbs of deceased, in the absence of report of Medical Officer to the query as aforesaid, there is nothing to hold that injuries on the lower limb are antimortem injuries. This aspect is further substantiated as in the post mortem notes there are no such external injuries referred therein except for one contusion and abrasion on the right thigh of the deceased. Admittedly as it is the case of prosecution that, deceased died of hanging, there is reference of ligature mark around neck in the form of abrasion and other co-related injuries to her neck mentioned in the post mortem note. In that view of the matter, prima facie, it is found that apart from ligature mark and one contusion, abrasion on right thigh no injuries were found on the person of the deceased which, there for falsifying contents of statement and report of alleged assault by applicant to deceased prior to incident along with other co accused

including father in law of deceased who admittedly is granted bail by this court.

4. In view of above stated facts, application is liable to be allowed on parity along with co accused Jairam.

5. With regard to further allegation in the report and the statements which are admittedly of relatives of deceased, from the report lodged by father of deceased it would reveal that marriage was performed with Kedu Gangurde one year before and applicant, her father in law Jairam were not giving tractor and motor cycle to Kedu-husband of deceased which vehicles were jointly owned by family members, saying that husband of deceased should get money from her parents for tractor and motor cycle. Admittedly Jairam is released on bail by this court. Learned APP at this stage though has pointed out that application of Jairam was considered during the pendency of investigation and was granted bail considering his age of 70 years. These submissions are not by itself sufficient to reject the application as from the copy of charge sheet, role attributed to applicant and Jairam are similar and in fact present application is considered after filing of charge sheet.

6. In view of facts mentioned as aforesaid and since applicant is in custody from the date of his arrest as aforesaid, application is allowed as even otherwise there are no CDRs filed along with charge sheet in respect of phone calls alleged to have been made by deceased to her father in the morning of incident. In that view of the matter even considering the allegations made with regard to provisions of Section 306 of the I.P.C. there is nothing to establish that prior to deceased committing suicide applicant in any manner was instrumental in instigating or abetting the same. Application is thus allowed as per order below.

7. It is made clear that the observation made in this order are prima facie and trial court should not get influenced with the observations made in this order and shall independently decide the matter on its own merits.

ORDER

a) Applicant shall be released on bail in CR No.174/2018 registered with Chandwad Police Station, District Nashik on his executing PR bond in the sum of Rs.25,000/-with one surety in the like amount.

- b) Applicant shall attend the concerned police station on the first day of each month initially for a period of 6-months and thereafter quarterly on the first day of each such month till conclusion of trial.
- c) Application is accordingly disposed off.

(P.N. DESHMUKH, J.)