

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

938 BAIL APPLICATION NO.1105 OF 2020

AASIF RASHID TADVI
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Jadhav Satej S
APP for Respondent : Mr. A S Shinde

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CORAM : V.K. JADHAV, J.
Dated: October 07, 2020

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PER COURT :-

1. The applicant is seeking bail in connection with crime No.19 of 2019 registered with Sawda police station, District Jalgaon, for the offences punishable under Sections 302, 498-A, 34 of IPC. His application bearing Regular Bail application No.175 of 2020 with similar prayer came to be rejected by the learned Additional Sessions Judge, Bhusawal vide order dated 9.6.2020.

2. Learned counsel for the applicant submits that the prosecution case rests upon the circumstantial evidence and there is no direct evidence in this case. Learned

counsel submits that allegations have been made mainly against co-accused husband Rafiq Rashid Tadv. Present applicant is the real brother of co-accused Rafiq. It has been alleged in the complaint that co-accused husband Rafiq used to ill-treat his wife deceased Marjina by suspecting about her character and even deceased Marjina had disclosed the same to her parents by making a phone call. Learned counsel submits that there is only one line in the complaint to the effect that the present applicant was also suspecting about character of the deceased Marjina. Learned counsel submits that there is no connecting evidence against the applicant. Even his presence in the house at the relevant time is also not stated by any witness. Learned counsel submits that result of the test of C.A. about kerosene on the clothes of the deceased has come in the negative. Learned counsel submits that even the informant in his supplementary statement has corrected the complaint to the effect that he has incorrectly mentioned in the complaint that deceased was set on fire instead she caught fire. Learned counsel

submits that the applicant is behind bar since 18.6.2019. The applicant is having fixed place of residence. He is easily available for trial. There is no question of tampering with the prosecution evidence. The applicant may be released on bail.

3. Learned A.P.P. has strongly resisted the application on the ground that deceased Marjina died in her matrimonial home. It is a custodial death. The applicant has nowhere explained about death of deceased Marjina occurred otherwise than under the normal circumstances. *Prima facie*, there is strong case against the applicant and co-accused husband. The applicant may not be released on bail.

4. On going through the allegations made in the complaint and on perusal of the entire charge-sheet, it appears that the prosecution case entirely rests upon the circumstantial evidence and there is no direct evidence in this case. It further appears from the allegations made in the complaint that co-accused

husband Rafiq used to ill-treat his wife deceased Marjina by suspecting about her character. There was no reason for the applicant, who is brother-in-law of the deceased Marjina to suspect about her character. Furthermore, there is no connecting evidence as against the applicant. Even, no single witness has stated about his presence in the house at the relevant time. Thus, considering the entire aspect of the case and since there is no possibility of tampering with the prosecution case, I am inclined to release the applicant on bail. Hence, following order :-

O R D E R

- I. Application is hereby allowed.
- II. The applicant AASIF RASHID TADVI, in connection with crime No.19 of 2019 registered with Sawda police station, District Jalgaon, for the offences punishable under Sections 302, 498-A, 34 of IPC be released on bail on furnishing personal bond of Rs.20,000/- (Rs. Twenty Thousand) with one solvent surety of the like amount on following condition :-

aaa/-

- a) The applicant shall not tamper with the prosecution evidence in any manner.

III. Application is disposed off.

(V.K. JADHAV, J.)

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