

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (BA) NO.331 OF 2020

(Arun Wamanraoji Khodke vs. State)

Office Notes, Office Memoranda of Coram,
orders
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's

CORAM : M. G. GIRATKAR, J.

DATE : 27.7.2020.

1. Heard Mr.A.A.Dhawas, learned Counsel for the applicant and Mr.J.Y.Ghurde, learned Additional Public Prosecutor for non-applicant/ State. The hearing was conducted through Video Conferencing and the learned Counsel for the respective parties agreed that the audio and visual quality was proper.

2. Mr.A.A.Dhawas, learned Counsel for the applicant has pointed out Post mortem report and Histo-pathology report. The learned Counsel has submitted that there is no definite opinion about cause of death of deceased. Learned Counsel has submitted that the deceased died a natural death. Learned Counsel has submitted that statements of witnesses are not reliable. Extra-judicial confession is a weak type of evidence and only on that basis, the accused cannot be convicted. Learned Counsel has submitted that investigation is completed. Charge-sheet is filed. There is no progress in the trial. The learned Counsel,

therefore, prayed to release the applicant on bail.

3. Mr.J.Y.Ghurde, learned Additional Public Prosecutor has pointed out report and statement of neighbour Rishikesh Pendam and also statement of Shekhar Chaudhari. Learned Additional Public Prosecutor has submitted that witness Rishikesh Pendam has stated in his statement that, in the night, he heard noise of deceased. She was crying saying "save me, save me". In the morning, the deceased was found dead. Learned Additional Public Prosecutor has further submitted that the applicant is husband of the deceased. In the night of incident, the applicant was present in the house. He knew very well about the cause of death. The Post Mortem report shows the injuries on the face of deceased. Though there is no definite opinion, but the opinion given by Dr.R.P.Kude on 13.2.2020 shows that the injuries mentioned in the Post Mortem report are possible with nails which can be caused during struggle while smothering with pillow. Learned Additional Public Prosecutor has submitted that the deceased was killed by the applicant by pressing her mouth with pillow and she died due to smothering during struggle and that those injuries were found at the time of Post Mortem report. On perusal of Post Mortem report, it appears that the cause of death was not specifically mentioned. Opinion was reserved

since Histo-pathology report and Chemical Analyser's report were awaited. Histo-pathology report is received, but it does not disclose definite cause of death. But the Post Mortem report Column no.17 shows six abrasions on the face of deceased. The report given by Dr.Kude dt.30.2.2020 shows that the injuries mentioned in the Post Mortem report can be caused during struggle while smothering with pillow. The deceased was in the company of the applicant. The applicant is husband of deceased. He has not denied his presence on the spot in the night of incident. The cause of death of deceased is within the knowledge of applicant/accused. Therefore, the applicant is not entitled for grant of bail. Hence, the application is rejected.

4. If trial is not commenced within a period of three months from the date of this order, the applicant is at liberty to apply for grant of regular bail before the trial Court.

The application is disposed of.

This order be communicated to the Counsel appearing for the parties, either on the email address or on WhatsApp or by such other mode, as is permissible in law.

JUDGE

ssjaiswal

Suraj
Jaiswal

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by Suraj Jaiswal
Date:
2020.07.27
16:16:50 +0530