

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

12 BAIL APPLICATION NO.171 OF 2021
SITARAM SAMBHAJI KALE
VERSUS
THE STATE OF MAHARASHTRA

Mr.S.R. Sapkal, Advocate for the applicant.
Mr.N.T. Bhagat, APP for respondent/State.

CORAM : SANDEEP K. SHINDE, J.
DATED : 05.07.2021

PC :-

01. Heard.

02. Sulbha Sitaram Kale (deceased) - first wife of the applicant met with homicidal death in the house of the applicant. Provisional cause of death as reported was due to, "asphyxia due to compression of neck associated with multiple under scalp contusions". Multiple injuries noted in the paragraph No.17 of the post-mortem report were reported ante-mortem. Therefore, undoubtedly it was homicidal death. The alleged incident had occurred on 5th September, 2019. Soon after the incident, accidental death enquiry was held on 6th September, 2019; whereafter on 7th September, 2019, brother of the deceased filed a complaint. Applicant-accused was arrested on 7th September, 2019. His second wife is co-accused. She has been granted bail by this Court.

03. Learned Counsel for the applicant would submit that statements of applicant's children were recorded under section 164 Cr.P.C., however, children have not attributed role to the applicant. Learned Counsel has taken me through statement of Sadhana - daughter of deceased and Sanket - son of the deceased. These statements indicate, at the time of occurrence, the applicant and his second wife were in the home. Admittedly, the deceased met with homicidal death. The circumstances under which she died were to be presumed within the special knowledge of applicant. However, it is not the applicant's case that at the material time he was not in the house. The charge-sheet does not suggest presence of third person in the house where the incident had taken place. As well, a fact cannot be ignored that the applicant has performed second marriage when his first marriage with the deceased was subsisting.

04. In consideration of the facts of the case and in view of the gravity of the offence, I am not inclined to grant this application. It is rejected.

[SANDEEP K. SHINDE,J.]