

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

14 BAIL APPLICATION NO.298 OF 2021
ANIL DATTARAO TALEKAR
VERSUS
THE STATE OF MAHARASHTRA

Mr.Swapnil S. Rath, Advocate for the applicant.
Mrs.V.S. Choudhari, APP for respondent/State.

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

PC :-

01. Heard Mr.Rath, learned Counsel for the applicant and learned APP for the State.

02. The applicant is seeking his enlargement on bail in connection with Crime No.0236 of 2020, registered with Jintur Police Station under section 302, 498(A), 323, 504, 506, 34 of the Indian Penal Code.

03. Deceased Chandrakanta – wife of the applicant died on 25.05.2020. The cause of death opined was “due to asphyxia due to compression around neck”. In column No.17 of the post-mortem report, following injuries were noted :-

“Ligature material was not present inside ligature mark present above the level of thyroid cartilage on both side of neck 12 cm in length & 1.5 cm in width. And absent over back of neck extending from right angle of mandible to left angle of mandible.

Ligature mark present in form of pressure abrasion,

reddish, brownish in colour, slightly grooved and dried.

On dissection subcutaneous tissue was white and glistening. Few hemorrhagic spot present in underline tissue.

No fracture of hyoid bone and thyroid cartilage."

04. In column No.18 the Autopsy Surgeon did not notice fracture; but noted that the injuries were ante-mortem. Report was lodged by father of the deceased, where-after crime came to be registered.

05. Mr. Rathi, learned Counsel for the applicant would submit that the investigation is over and the charge-sheet has been filed. He would submit that the material on record and particularly the post-mortem report suggests, that it was not homicidal but a suicidal death. He would also submit that the applicant has been falsely implicated and that the trial is not likely commence in the near future. It is submitted that the applicant would always be available for trial and his presence may be secured by imposing conditions. On these grounds, he seeks bail.

06. Mr.Rathi, learned Counsel for the applicant submits that on 25.05.2020 in the morning hours the applicant had been to his field, which was 5 kms. away from his house. He would submit that when he returned home, he found his wife hung herself. He reported the incident to his brother, who was his immediate neighbour

but living in separate house. It is submitted that the deceased was moved to hospital. Mr. Rathi further submits that the injuries noted in paragraph No.17 of post-mortem report were, "possible injuries", in a case of death by hanging. He would submit had it been a case of strangulation, in the natural course there would have been marks of struggle either on the person of the deceased or the applicant, but such marks were not found. It is submitted that no fracture of hyoid bone and thyroid cartilage was noted. Mr. Rathi would, therefore, submit it was not homicidal death by strangulation but suicidal death. In support of his submission, he has also relied on the extract of Text Book of Medical Jurisprudence and Toxicology by Modi.

07. Mrs. Choudhari, learned APP opposed the application and would invite my attention to statement of Mr. Subhash Talekar. He was the first person to visit the spot of incident. His statement shows when he went on the spot, Chandrakanta was lying unconscious on the ground. Learned APP has also invited my attention to statements of Kundlik Sase and Suresh Sase. Conjoint reading of these statements belies applicant's contention that when he returned home, he found his wife hung herself. Statements of these witnesses do not even remotely suggest that the deceased had committed suicide.

08. Had this been a case of suicide, applicant would have reported this fact to his brother and neighbours. In consideration of attendant circumstances, applicant's submission that at the material time he was not at home seems improbable. Rather investigation suggests and reveals that the applicant was harassing the deceased for not meeting unlawful demands. Be that as it may, the incident had taken place in the house of the deceased. At the material time, applicant and his minor son were living with the deceased. Therefore, it is to be held that circumstances in which Chandrakanta died, were within the special knowledge of the applicant. The post-mortem report shows Chandrakanta died due to "compression" around neck. As to whether the injuries noted in the post-mortem report were indicating the case of strangulation or by hanging is a matter of evidence. Yet, the attendant circumstances do not rule out applicant's complicity in the crime. The offence is of serious in nature for which punishment is life imprisonment or death.

09. For the reasons stated above, I am not inclined to grant bail. Application is rejected.

[SANDEEP K. SHINDE,J.]