

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

BAIL APPLICATION NO.1132 OF 2021

Baburao S/o Attam @ Atmaram Tidke

...APPLICANT

VERSUS

The State of Maharashtra

...RESPONDENT

...
Shri Vilas P. Savant Advocate for Applicant.
Shri V.M. Kagne, A.P.P. for Respondent-State.
...

CORAM: M.G. SEWLIKAR, J.

DATE : 17th NOVEMBER, 2021

ORDER :

1. Heard Shri Savant, learned counsel for the applicant. He submits that deceased Jyoti was the wife of the applicant. Their marriage was performed seven years before the incident. Informant is the real uncle of the deceased. The deceased had given birth to two daughters.

2. It is alleged in the first information report that the applicant used to harass the deceased by making unlawful demand of Rs.50,000/-. She was also subjected to ill-treatment

by the applicant by passing sarcastic remarks at her that she gave birth to two daughters only. The informant tried to convince the applicant and requested him to maintain the deceased well. He also requested the applicant that he had no sufficient funds to meet the demand of the applicant. It is further alleged in the first information report that on 12th February 2020 at 4.00 p.m., one Umesh Tidke informed the informant telephonically that the deceased Jyoti committed suicide by jumping into the well. On these allegations first information report came to be lodged, on the basis of which offences under Sections 306, 498-A read with Section 34 of the Indian Penal Code came to be registered.

3. On performing the post-mortem, it was revealed that the deceased did not die due to drowning but her death was due to compression of neck. Post-mortem report also reveals that the deceased had abrasions on the neck. Therefore, offence was converted under Section 302 of the Indian Penal Code.

4. Learned counsel Shri Savant submits that the circumstances obtaining at the spot of the incident unmistakably indicate that the deceased jumped into the well. He submits that daughters of the deceased were also with her and statement of one of the witnesses shows that one of the daughters was

indicating towards well saying "Aai Aai". He submits that there are statements of the witnesses which show that they heard commotion and saw people running towards well saying that a lady had jumped into the well. He submits that all these circumstances indicate that the deceased committed suicide by jumping into the well. He further submits that there is variance between inquest report and post-mortem report. Inquest report shows that there were no injuries on the neck of the deceased. He further submits that thyroid bone of the deceased was intact. He submits that for all these reasons it cannot be said that the deceased died a homicidal death.

5. Learned APP points out that the death of the deceased was due to compression of neck and it was a homicidal death.

6. Charge-sheet is filed. It is true that there are statements of the witnesses which show that people were running towards the well saying that a lady had jumped into the well. At the time of registration of the offence, there were circumstances indicating that it was a suicide by the deceased Jyoti. But the situation took a turn when post-mortem report was received. In the post-mortem report medical officer observed that the death had occurred due to compression of neck. Post-mortem report

also shows that the deceased had injuries on her neck. This clearly shows that the death of the deceased was not due to drowning but it was due to compression of neck. The applicant tried to misguide the investigating agency masquerading the death of the deceased as due to drowning. However, the post-mortem report cleared the impression created by the applicant.

7. Having regard to the circumstances placed on record, I am not inclined to release the applicant on bail. There is *prima facie* case against the applicant. In this view of the matter, following order is passed:-

ORDER

. Bail Application is dismissed.

[M.G. SEWLIKAR, J.]