

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

909 BAIL APPLICATION NO.1517 OF 2020

AKASH VINOD @ VINAYAK BHUJANGA

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. P.P. More, Advocate for applicant

Mrs. D.S. Jape, APP for respondent

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 13th JANUARY, 2021.

ORDER :

1 Present applicant has been arrested, in connection with Crime No.28/2020 dated 12.02.2020 registered with Shirur-Anantpal Police Station, Dist. Latur, for the offence punishable under Section 302, 304-B, 201, 498-A of the Indian Penal Code. He has filed present application for bail under Section 439 of the Code of Criminal Procedure, 1973.

2 Heard learned Advocate Mr. P.P. More for the applicant and learned APP Mrs. D.S. Jape for the respondent/State.

3 It has been vehemently submitted on behalf of the applicant that the applicant is the husband of the deceased. He is innocent and has been

falsely involved by the informant, who is the father of the deceased. Only after considering the gravity of the offence it will not be sufficient to put the accused behind bar. Now, the investigation is over and charge sheet has been filed. Therefore, the physical custody of the applicant is not required. Initially even the parents of the applicant were made as an accused, however, they have been discharged under Section 169 of Cr.P.C. by police themselves. No complaint of ill-treatment was ever filed by the deceased against the present applicant, but now, her father has come with that story. The applicant has permanent place of abode, and therefore, there is no question of he getting absconding. He is ready to abide by terms of bail.

4 Learned APP strongly opposed the application and submitted that the material, that has been collected against the accused, is sufficient to hold trial. Applicant and deceased got married on 02.01.2019 and deceased had expired on 11.02.2020. Thus, within a year the death has taken place and the Post Mortem Report gives cause of death as, "Asphyxia due to ligature compression over neck with multiple contusions". Though it is stated that viscera is preserved and final decision would be given, then that much opinion is sufficient to come to a conclusion that the death is homicidal in nature. There are witnesses, whose statements have been recorded on the point of ill-treatment and the statement of witness Shivshankar Awale would

show that he reached the house of the applicant after noise were heard. He found that the present applicant was taking out the body of the deceased from hanging position. He had seen the bleeding injury to the deceased. He has then stated that the parents of the applicant had come from outside, and therefore, it appears that from the evidence, that was collected, the involvement of the parents was not found, and therefore, they have been discharged under Section 169 of Cr.P.C. There is discovery at the hands of the present applicant, and therefore, taking into consideration the material he is not entitled to release on bail.

5 At the outset, when the investigation is complete, the further physical custody of the applicant may not be required for the purpose of investigation. However, then as regards the application for bail is concerned, we are required to consider what is the evidence, that has been collected against the applicant. The informant is the father of the deceased. Naturally, he was not present when the incident took place in the matrimonial house of the deceased. But then he states that deceased was harassed by the present applicant to bring amount of Rs.2,00,000/-, as he intended to open a shop. After receiving the information about death of his daughter, he went to her house and found that there was injury on the forehead. If we see the Inquest Panchnama, we can see the injury marks on the face and neck of the

deceased, so also, on her stomach. Statements of witnesses also state about the injuries. Further, important piece of evidence is the Post Mortem Report, which states that the cause of death is, 'Asphyxia due to ligature compression over the neck'. Now, coupled with the injuries about 8 in number, which have been stated in the P.M. report, it cannot be stated that it would be a case of suicide. Even in his application the applicant has not come with the case that his wife has committed suicide. He has not tried to give any reason, no doubt, at a very premature stage, but still when it comes to bail application, some stand will have to be taken by him to explain his version about the incident. A fact, which we cannot forget is that the deceased was the wife of the applicant and she was in his custody. Therefore, it amounts to custodial death and the burden to prove his innocence would be on the applicant. Therefore, taking into consideration material in the charge sheet, this is not a fit case, where the discretionary powers of this Court should be exercised. Under such circumstance, the application stands rejected.

(Smt. Vibha Kankanwadi, J.)