

Mr. Padmanabh D. Pise, for the Applicant.

Mrs. P. P. Shinde, APP, for the State-Respondent.

RESERVED ON : 08th December, 2021.
PRONOUNCED ON : 21st December, 2021.

. The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in C.R. No. 260 of 2019 registered with Miraj City Police Station, District- Sangli for the offences punishable under Sections 302, 498A of the Indian Penal Code (IPC).

2 It is the case of prosecution that the informant is the mother of deceased- Vaishali Kishor Vasudev. The deceased was married to applicant. According to prosecution, the deceased used to do work of house attendant while the informant was employed in Dubai. In the

month of January 2019, the deceased was arrested in a case of theft on the complaint of employer. Similarly, she was having extra-marital affairs. When applicant came to know all these facts, he started beating the deceased. The family members of the applicant were not ready to allow the applicant to co-habit with applicant, however, the matter was settled on a condition that the family members of the deceased would bear the expenses of Court matter and would compensate the amount expended by the deceased. It was further agreed that if the family members of applicant again come to know about the illicit relations then the deceased would give divorce to applicant and would also bear the marriage expenses of the applicant.

3 According to prosecution, on 05/06/2019, the mother of the deceased came to know about the quarrel between the deceased and the applicant and that the deceased had sustained injuries. When the informant and family members reached the hospital they found the deceased in ICU. The informant accordingly lodged the report on 06/06/2019. However, it appears that during the course of treatment the deceased succumbed to the injuries on 10/06/2019.

4 Mr. Pise, learned Counsel for the applicant, submits that the

incident in question took place out of sudden provocation and there was no intention on the part of applicant to kill his wife. Investigation is over. Charge-sheet has been filed. The applicant has two young children. No purpose would be served by keeping the applicant behind the bars. Hence, applicant deserves to be released on bail.

5 Mrs. Shinde, learned APP, on the other hand, opposed the submissions and invited my attention to the findings of Postmortem Report. Learned APP also invited my attention to the statements of neighbouring eye witnesses and then submitted that there being no merit in the application, the same is liable to be rejected.

6 Perused the investigation papers.

7 From the FIR it is more than clear that not only the deceased was involved in a case of theft but was also having extra-marital affairs. When this fact came to knowledge of the applicant-husband, he started beating the deceased. Even thereafter the quarrel took place on many occasions on the ground of adultery on the part of deceased.

8 I have also gone through the statements of eye witnesses, namely,

Smt. Shevanti Sanjay Dhumal and Smt. Punam Sani Dhumal. According to Smt. Shevanti, on 03/06/2019 at about 05.15 a.m. she had gone for a walk. At about 6.10 a.m. applicant, who was her nephew, called her and took her to his house and told that he had a quarrel with the deceased on the ground of adultery and that he had beaten her. This witness then found the deceased lying on the kitchen floor with injuries on her face and lid of cooker and steel vessel lying around. This witness told the said incident to Smt. Punam Dhumal, who has stated in the similar fashion.

9 It is then seen from the record that pursuant to the disclosure statement given by the applicant under Section 27 of the Indian Evidence Act, a lid of cooker also came to be seized at his instance. The Postmortem Report shows that the cause of death was head injury. Column No. 17 of the Postmortem Report shows that there were as many as 23 injuries whereas column no. 19 shows that there was diffuse contusion present over fronto-parieto-occipital region. There is also opinion of the Medical Officer of Wanless Hospital, Miraj stating therein that the injuries noted on the person of deceased were possible by lid of cooker and a drinking vessel of steel.

10 From the material on record, prima facie, involvement of applicant is made out by the prosecution. However, at the same time, it must be appreciated that it was domestic quarrel arising out of adultery and theft on the part of the deceased. That were the main grounds for provocation. There are two young children as well. Investigation is over. Charge-sheet has been filed. No other criminal antecedents are forthcoming.

11 In view of above, although the act of applicant cannot be justified but then having regard to other factors, which I have already enumerated herein-above, no purpose will be served by keeping the applicant behind the bars. Hence, the following order.

ORDER

(i) Applicant- Kishor Arjun Vasudev shall be released on bail in C.R. No. 260 of 2019 registered with Miraj City Police Station, District-Sangli on his executing P .R. bond in the sum of Rs. 20,000/- with one or more sureties in like amount.

(ii) The applicant shall not tamper with the prosecution evidence and shall attend the trial regularly.

(iii) The observations made herein-above are prima-facie in its nature

for the purpose of deciding the bail application only. The trial Court shall not be influenced by the observations while deciding the case on merits.

(iv) Bail before the trial Court.

(v) The application is allowed in the aforesaid terms and stands disposed of accordingly.

(V. G. BISHT, J.)