

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

BAIL APPLICATION NO.988 OF 2021

Santosh s/o. Nagorao Kambale	..Applicant
Vs.	
The State of Maharashtra	..Respondent

Mr.N.S.Ghanekar, Advocate for applicant
Mr.S.P.Sonpavale, APP for respondent

**CORAM : R.G. AVACHAT, J.
DATE : JULY 27, 2022**

ORDER :-

This is an application under Section 439 of the Code of Criminal Procedure. The applicant has been arrested in connection with Crime No.03 of 2020 registered with Bori Police Station, Dist. Parbhani.

2. Heard learned counsel appearing for the parties.
3. The applicant herein is alleged to have committed murder of his wife. The FIR, therefore, registered against him on 03.01.2020.
4. According to learned counsel for the applicant, the case would squarely fall within Exception 1 of Section 300 of Indian Penal Code. According to him, the incident took place out of grave and

sudden provocation. The deceased had extra-marital relation with one Anil Dake. The deceased told the applicant that she is going to leave him for residing with her paramour permanently and the given moment would be their last time of togetherness. The applicant, therefore, got grave provocation and killed her by throttling and assaulting with stone.

5. Learned APP has strongly objected to grant bail to the applicant. According to him, grave and sudden provocation is a question of fact that could only be ascertained during trial of the case.

6. The Court is not in agreement with learned APP. What is emerging from the police papers would necessarily be converted into admissible piece of evidence. As per the prosecution case, the deceased had extra-marital relationship. At the given moment, she told her husband (applicant) that it was their last moment of togetherness and she was leaving him permanently to join her paramour. In view of this Court, these facts would necessarily be covered by Exception 1 to Section 300 of I.P.C. The Court is, therefore, inclined to grant the applicant bail.

7. Hence, the following order:-

(i) The application is allowed.

(ii) The applicant be released in connection with Crime No.03 of 2020 registered with Bori Police Station, Dist. Parbhani, on executing P.R. Bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with one surety in the like amount.

(iii) The applicant shall not tamper with the prosecution evidence in any manner.

[R.G. AVACHAT, J.]

KBP