

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

BAIL APPLICATION NO. 972 OF 2019

**RAVINDRA KAGADA VALVI
VERSUS
THE STATE OF MAHARASHTRA**

....

Mr. Gajendra D. Jain, Advocate for the Applicant
Mr. S.G. Sangle, AGP for Respondent / State

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CORAM : SHRIKANT D. KULKARNI, J.

DATE : 15th MARCH, 2022

PER COURT:-

1. The applicant is seeking bail in connection with crime no. 89 of 2017 registered at Dhadgaon Police Station, Taluka Shahada, District Nandurbar under Sections 302, 201 of the Indian Penal Code by taking aid of Section 439 of Criminal Procedure Code.

2. The uncle of the deceased lodged *khobar* with Dhadgaon Police Station on 09.07.2017 about unnatural death of his niece Kobibai Ravindra Valvi, who happened to be the wife of the applicant. The dead body of Kobibai was found in a hanging position in the outskirts of the village in the afternoon time at about 2.00 p.m. on 09.07.2017. After receiving the *khobar*, Dhadgaon Police Station official registered the A.D. On the next

day, on 10.07.2017, the uncle of the deceased namely Gajendra Dema Padvī, R/o. Khuntamodi lodged the first information report against the applicant. It is alleged in the F.I.R. that though the marriage of the applicant was solemnized with the deceased and they lived together for ten years, they had no children. It is alleged in the F.I.R. that the applicant has committed the murder of his wife Kobibai during the night hours on 08.07.2017 by strangulation and pretended that she had committed suicide. On the basis of the F.I.R. lodged by the uncle of the deceased, crime no. 89 of 2017 came to be registered at Dhadgaon Police Station for the offences punishable under Sections 302, 201 of the Indian Penal Code. The investigation has been completed. The charge-sheet came to be filed. The trial is in progress before the Additional Sessions Judge at Shahada.

3. Heard Mr. Gajendra Jain, learned counsel for the applicant and Mr. S.G. Sangle, learned APP for respondent / State.

4. Mr. Jain, learned counsel for the applicant submits that the applicant and the deceased lived together for ten years happily. There was no complaint in a span of ten years. The deceased along with her husband / applicant had been to the house of the first informant just one day before and had meals in the night, and

thereafter, both of them went to their house. On the next day, in the afternoon, the dead body of Kobibai was found in the outskirts of the village in a hanging position. He submits that there is no direct evidence against the applicant. The case is based upon circumstantial evidence. There are no antecedents against the applicant. The applicant was happily living with the deceased, though they had no children even after long cohabitation of ten years. As such, there was no reason or intention on the part of the applicant / husband to commit the murder of his wife on the alleged ground that she was barren. He submits that there is no reason to keep the applicant behind the bars. He, therefore, urged to grant bail to the applicant.

5. Mr. S.G.Sangle, learned APP for respondent / State invited my attention to the order passed by this Court dated 14.12.2018. He pointed out that the applicant had earlier moved bail application no. 74 of 2018, after filing of charge-sheet, before this Court. This Court after hearing the arguments of both the sides, expressed its inclination to reject the bail application. On instructions, the learned counsel for the applicant sought leave to withdraw the application with liberty to apply for bail afresh. If, the trial does not commence within six months. Mr. Sangle

submits that there are no change in circumstances to entertain this application. The trial has begun. The prosecution machinery has examined two witnesses. He submitted that the applicant is answerable for the death of his wife, when she was found dead in a suspicious circumstances. He submitted that it is not a fit case to grant bail, when the trial is in progress.

6. I have considered the submissions of Mr. Jain, learned counsel for the applicant and Mr. Sangle, learned APP for the State. Perused the copy of *khabar*, copy of F.I.R., copy of the order passed by this Court, copy of bail order passed by the Adhoc Additional Sessions Judge, Shahada and other papers in the light of arguments advanced by both the sides.

7. It is rightly pointed out by Mr. Sangle, learned APP for the State that this Court after hearing the arguments of both the sides, expressed its inclination to reject the application, when the bail application came to be withdrawn by the learned counsel for the applicant after taking instructions. It was the bail application after filing of the charge-sheet. The liberty was granted to the applicant to file a fresh bail application, if trial does not commence within six months. It appears from the order passed by the Adhoc

Additional Sessions Judge dated 25.06.2019 that the trial has commenced and the prosecution machinery has examined two witnesses. In this background, instant application cannot be entertained.

8. Even on merits, it appears that it is a case of death of the wife of the applicant. On perusing the copy of F.I.R. and *khabar*, it is *prima facie* evident that the applicant and his wife deceased Kobibai had been to the house of first informant on 08.07.2017. After having dinner, the applicant and deceased left the house of first informant about 10.00 p.m. On the very next day, in the afternoon, the dead body of applicant's wife was found in a hanging position. It was an unnatural death. Initially, accidental death was registered and subsequently F.I.R. came be registered against the applicant. The deceased was happened to be the wife of the applicant. She was in the company of the applicant, when both of them left the house of first informant in the night of 08.07.2017. As such, it is incumbent on the part of applicant to offer reasonable explanation as to how and in what manner his wife succumb to the death. The applicant has come out with a case that he is not any way involved in the death of his wife. He cannot be held responsible.

9. It is evident from the order passed by the learned Adhoc Additional Sessions Judge, Shahada dated 25.06.2019 that the prosecution machinery has examined two witnesses. The trial has already commenced. I do not see any ground to release the applicant on bail at this stage, when the trial is in progress. At the most the trial can be expedited.

10. Having regard to the above reasons and discussion, I proceed to pass the following order:

ORDER

(i) The bail application is hereby rejected.

(ii) The learned Additional Sessions Judge, Shahada is hereby requested to dispose of Sessions Case No. 54 of 2017 within a period of six months from the date of receipt of writ of this Court.

(iii) The observations made by this Court are *prima facie* to the extent of deciding this bail application and trial Court shall not get influenced by those observations made by this Court.

(iv) The Registrar (Judicial) of this Court is requested to forward the copy of this order to the learned Additional Sessions Judge, Shahada for information and compliance.

(v) The bail application is accordingly disposed of.

[SHRIKANT D. KULKARNI]
JUDGE

S.P. Rane