

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

929 BAIL APPLICATION NO.1749 OF 2022

BABASAHEB DNYANOBA TIRGUL
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. V.A. Mundhe h/f Mr. Thombre S.S.
APP for Respondent-State : Mr. V. M. Kagne.

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CORAM : S. G. MEHARE, J.
DATE : 17.11.2022

PER COURT :-

1. Heard the learned counsel for the applicant and the Learned APP for the respondent-State.
2. The applicant/husband has been arraigned for the offence of murder of his wife. The marriage was performed 20 years back. On one fine morning, the deceased was found hanging in the house. Initially, the offence under Section 306 of the IPC was registered, but subsequent to Post Mortem Report, the offence was converted to the offence punishable under Section 302 of the IPC. The applicant has been languishing behind bars. His parents were also arrested. However, they have been released on bail.

3. Learned counsel for the applicant would submit that the prosecution has no evidence of homicidal death. The signs that the Medical Officer has noted do not inspire confidence that it was the homicidal hanging. The prosecution also has no case that there were two persons at the time of the incident. On the contrary, the prosecution has a case that the deceased was found hanging in her own house. The applicant has no antecedents. The charge sheet has been filed. The applicant has to maintain his family, including parents and children. Hence, he may be released on bail.

4. Learned APP has strongly opposed the application contending that the Post Mortem Report does not support the applicant's case. However, after examining the dead body of the deceased, the doctor expressed the opinion that it was ligature strangulation. Referring to the various columns of the Post Mortem Report, he would argue that the circumstances are suspicious and corroborated with the Post Mortem Report. Therefore, the possibility of murdering the deceased cannot be ruled out. The application deserves to be dismissed.

5. In reply, learned counsel for the applicant would refer to the paragraph No.20.2.7.2 from A Textbook of Medical Jurisprudence and Toxicology by Modi, Twenty Seventh

Edition published by LexisNexis, at page No.573. On that page, Dr. Modi has placed the signs of homicidal hanging. He has expressed his opinion that usually, more than one person is involved in the act of homicidal hanging, unless the victim is a child or very weak and feeble or is rendered unconscious by some intoxicating or narcotic drug. In a case, where resistance has been offered, marks of violence on the body and marks of struggle or footprints of several persons at or near the place of the occurrence are likely to be found.

6. In the case at hand, there were no resistance marks on the person of the deceased. The prosecution has no case that at least there were two persons at the time of committing the offence, and the deceased was very weak and feeble and had rendered unconscious by administering her intoxicating or narcotic drug. The prosecution case rests upon the Medical Report. Medical Report may be proved on merit. However, the other circumstances do not support the prosecution case. Hence, without expressing any opinion on merit, but considering the circumstances of the case, the application deserves to be allowed. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant **BABASAHEB DNYANOBA TIRGUL** be released on bail on furnishing PB. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) with one solvent surety of the like amount, in Crime No.50 of 2022, registered by Police Station Pimpalner, District Beed, for the offences punishable under Sections 302, 306, 498-A, 323, 504 read with Section 34 of the IPC.

(S. G. MEHARE, J.)

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vmk/-