

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 4217 OF 2021

Surendra Prakash Salunkhe	...Applicant
Versus	
The State Of Maharashtra	...Respondent

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Mr. Satyavrat Joshi i/by Mr. Nitesh Mohite, Advocate for the Applicant.

Mr. A. A. Palkar, APP for the Respondent - State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 13th OCTOBER, 2022

PER COURT:

1. This is an application for bail in connection with C.R. No. 1362 of 2020 registered with Hadapsar Police Station, Pune for offence punishable under Section 302 of the Indian Penal Code.

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2. The case of the prosecution is that dead body of the deceased Aparna was found in flat No. 6 at Sahara Corner Building between night of 26.08.2020 and 27.08.2020. It is alleged that the victim was the second wife of the applicant. The applicant was suspecting her character. Hence, the victim was strangulated and killed by applicant.

There is no eye witness to the incident. The case is based on circumstantial evidence. The prosecution has relied upon the circumstances such as last seen together, motive to commit murder, suspecting her character, recovery of clothes etc.

3. Learned advocate for the applicant submitted that the prosecution is primarily relying on the statement of Jetaram Devasi recorded on 01.09.2020. He is the shop keeper. He stated that on the day of incident he has seen the applicant and deceased together. However, in his statement recorded under Section 164 of Cr.P.C. he had completely changed his version and did not speak about the theory of last seen together. The prosecution is relying on the the statement of Ms. Nilima Shinde recorded on 28.08.2020 wherein she has stated that she saw the applicant and the deceased together while opening the door of the premises. The statement of Kunal Thakur was recorded on 01.11.2020. According to the said witness the accused was suspecting character of victim and then questioned the said witness about having any relationship with the deceased. The said witness has also stated that the accused used to assault the victim. It is submitted those circumstances are

not enough to prove charge under Section 302 of the IPC against applicant.

4. Learned APP submitted that the applicant and the deceased were residing together. In accordance with Section 106 of the Evidence Act, it is for the accused to explain the circumstances in which deceased had died. There are other circumstances to show involvement of the applicant in the crime. Odhani was found at the spot.

5. It appears that the victim and the applicant were initially in relationship and subsequently married. The statements on record indicate that sometimes the applicant and the victim used to stay together. Mr. Jetaram Devasi taken U turn under Section 164 of Cr.P.C. and his statement under Section 161 is doubtful. There is no strong evidence to indicate that the applicant and the victim were together on the night of the incident. The applicant is in custody since last two years. There are no criminal antecedents against the applicant. Hence bail can be granted to the applicant.

ORDER

(i) Criminal Bail Application No.4217 of 2021 is allowed;

- (ii) The applicant is directed to be released on bail in connection with C.R. No. 1362 of 2020 registered with Hadapsar police station on executing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant is permitted to furnish provisional cash bail security in the sum of Rs.25,000/- for a period of eight weeks in lieu of surety.
- (iv) The applicant shall not tamper with the evidence.
- (v) Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)