

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

BAIL APPLICATION NO.1515 OF 2023

SHAIKH SHAHED SHAIKH RUKHMODDIN
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. A.V. Lavte
APP for Respondents : Mr. K.S. Patil
Mr. J.A. Menezes advocate for complainant-assist to APP

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CORAM : S. G. CHAPALGAONKAR, J.

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Reserved on : September 08, 2023
Pronounced on : September 12, 2023.

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PER COURT :-

1. The applicant seeks regular bail in connection with Crime No.75 of 2023 registered with Peth Beed Police Station, District Beed for the offence punishable under sections 302, 498-A of the Indian Penal Code.

2. The investigation was set in motion on the complaint given by one Shaikh Jamil. It is stated that the informant is resident of Telgaon Naka, Peth Beed. His daughter Muskan is married with accused Shaikh Shahed, r/o Pathrud. After marriage, Muskan was residing alongwith her in-laws at Pathrud. Muskan used to tell him that her in-laws are ill-treating her. Although, he made efforts to reconcile, it could not worked. Hence, he brought his daughter to Beed. Within short duration

accused Shaikh Shahed joined them and started working at Beed. Even, thereafter, the accused used to quarrel with Muskan.

3. On 6.4.2023 at about 8.30 a.m. he received information that Muskan has been admitted at Civil Hospital, Beed. Immediately, he rushed to the hospital. He noticed that she is dead and there were injuries on her person. The informant states that the accused strangled deceased and caused her death. The investigation was progressed. The applicant was arrested. After completion of the investigation, charge-sheet has been filed for the offence punishable u/s 302, 498-A of the IPC against the applicant. The plea for grant of regular bail has been rejected by the Sessions Court vide order dated 10.8.2023.

4. Mr. Lavte, learned advocate appearing for the applicant would submit that the case of the prosecution is based on the circumstantial evidence. The applicant has been falsely implicated. He would submit that although there were quarrels between the applicant and the deceased that cannot be stretched to infer that the applicant killed her. Referring to the statement of witness Shaikh Akhil Shaikh Razzak, he would submit that at the time of the incident, the deceased Muskan was alone in side the room. The door was locked by her. The applicant was outside the room. He knocked the door. However, there was no response from Muskan. Thereafter, he knocked the door of his neighbour Shaikh Raziya and from her room he entered in his room where Muskan was found dead. Mr. Lavte would further rely upon the

statement of Shaikh Raziya Shaikh Akhil, who has given similar version. He would further submit that deceased Muskan died on account of suicide. There is no evidence to indicate that the applicant has committed murder of Muskan, as alleged.

5. The learned APP, however opposes the prayers. He would submit that the evidence on record clearly depicts that the applicant used to quarrel with his wife Muskan. Even, before her death in the night, he had apprehended her of dire consequences. He would further submit that the inquest panchnama as well as the postmortem report depicts that several antemortem injuries were seen on the person of the deceased. Postmortem report confirms that death is on account of strangulation. The applicant was alone in the company of deceased Muskan. As such, circumstantial evidence clinchingly fingers guilt towards the applicant.

6. Having considered the submissions advanced, it is apparent that relations between the applicant and his wife Muskan were strained. Even, day before her death, there was quarrel between them. The applicant and deceased Muskan were residing in room. The Muskan was brought to the hospital by the applicant in dead condition. The inquest panchnama shows that there were antemortem injuries on face and neck of the deceased. The postmortem report shows that the cause of death is "Asphyxia due to strangulation". The Medical Officer has given opinion that the ligature mark seen on the person of the deceased was homicidal.

Apparently, the aforesaid circumstances are sufficient to show that theory of the applicant regarding suicidal death of the deceased is unacceptable. The circumstances on record prima facie pin points the guilt against the applicant. So far as contention on behalf of the applicant that statement of aforesaid witnesses shows that the applicant was outside his house and he entered in the room from door which opens in the room of neighbour would not be of any consequence. Pertinently, witness Shaikh Raziya in her statement says that after entering in his room, the applicant came out after 10 to 15 minutes. That shows that before actual death of the Muskan, the applicant was in her company. In that view of the matter, prima facie, strong case is made out against the applicant for the offence punishable u/s 302, 498-A of the IPC. The release of the applicant is likely to cause hurdle in smooth prosecution of the case. Possibility of tampering of the witnesses cannot be ruled out. Resultantly, the bail application is dismissed.

7. The observations made here-in-above are prima facie in nature and are for disposal of present bail application only.

(S. G. CHAPALGAONKAR, J.)

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