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

CRIMINAL BAIL APPLICATION NO. 3743 OF 2022

Iliyas Abubakhar Khedekar ... Applicant

Versus

The State of Maharashtra ... Respondent

Ms.Misbaah Solkar a/w Ms.Neha Thakkar i/b. Mr.Amin Solkar, Advocate
for the Applicant.

Mr.Y.Y.Dabke - APP for the Respondent – State.

CORAM : S. M. MODAK, J.

DATED : 13th JANUARY, 2023

P.C. :-

1. Heard learned Advocate Ms.Misbaah Solkar for the Applicant –
Accused and learned APP Shri.Dabke for the Respondent-State.

2. The Applicant is accused of causing death of his daughter Kumari
Mariyam who is four years of age. The Applicant was doubting the
character of his wife Minaz. Even, he was doubting that the deceased
daughter was born out of their wedlock. The Applicant is working in gulf
countries and prior to the incident took place on 28th December, 2021, he
has returned to India. The incident took place on 28th December, 2021 at
about 11.45 a.m. The deceased has not responded to the call of her
father - Applicant and hence, he slapped on her cheek on three four
occasions. As a result, the girl dashed on a wall and she received head
injuries.

3. She was taken to Shraddha Hospital at Mandangad and then, to
Hospital at Dervan. The intimation is given to Savarde Police Station on
28th December, 2021. She succumbed to the injuries on 1st January, 2022.

The Police after conducting an enquiry, lodged complaint on 30th December, 2021 for the offence punishable under Section 325 of Indian Penal Code, 1860 (45 of 1860) [“IPC”] read with Section 75 of the Juvenile Justice (Care and Protection of Children) Act, 2015 [No.2 of 2016). After her death, it was converted to Section 304 (Part-II) of the IPC.

4. Since February, 2022, he is behind bar. The Police have completed the investigation. His Bail Application was rejected by the trial Court.

5. Learned APP opposed the bail on the ground the manner of merciless beating needs to be considered and if he is released on bail, there is every likelihood that he will go to the gulf countries and the sole eye witness – mother of the deceased will not come forward to give evidence.

6. I have perused the copy of charge-sheet made available. The Police have already recorded a statement of the concerned witnesses. Even though, it is true that the Applicant has beaten her daughter, I do not think that his further custodial interrogation is required. The wife of the Applicant is the eye witness and she is major. Her statement under Section 164 of the Code of Criminal Procedure, 1973 (2 of 1974) has already been recorded. Hence, subject to certain conditions, the Applicant can be admitted to bail. Hence, order :-

ORDER

- (i) Application is allowed.
- (ii) The Applicant is released on bail on furnishing personal bond and surety bond of Rs.25,000/- with one solvent surety.

- (iii) The Applicant is directed to surrender his passport to the Bankot Sagari Police Station through his relatives.
- (iv) The trial Court to verify about surrendering of passport prior to accepting surety.
- (v) The Applicant to attend at Bankot Sagari Police Station on first Monday of every month from 10.00 to 12.00 noon for one year.
- (vi) The Applicant not to threaten the Prosecution witnesses and to allure them in any manner.
- (vii) Breach of any condition will give rise to filing of an application for cancellation of bail and it will be considered on merits.

(S. M. MODAK, J.)