

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 4440 OF 2021**

Ashok @ Babu Maruti More ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr. Kedar Patil a/w Ms Sakshi Kadam a/w Mr. Pratik Tare a/w Mr. Jitesh Mundhwa a/w Ms Gargi Joshi for the Applicant.

Mr. P.H. Gaikwad Patil, APP for the State.

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CORAM : N.R. BORKAR, J.

DATED : 1 MARCH 2023

P.C. :-

This is an application filed under Section 439 of the Code of Criminal Procedure, 1973 for bail.

2. The applicant came to be arrested in Crime No. 353 of 2019 registered at Shahuwadi Police Station, Kolhapur for the offences punishable under Sections 452, 302 of the Indian Penal Code.

3. It is alleged that the on the date of alleged incident which took place on 30 October 2019, the present applicant came to the house of the deceased with whom he had illicit relations and committed her murder by strangulating her.

4. I have heard the learned counsel for the applicant and the learned APP for the respondent-State.

5. The learned counsel for the applicant submits that the alleged eye-witness to the incident, who is the daughter of the deceased is got up

witness, as her statement came to be recorded after seven days of the alleged incident. It is submitted that according to the prosecution after the alleged incident the said daughter of the deceased had called witness-Sitabai to their house. It is submitted that if the said daughter of the deceased had really seen the incident, then she would have certainly disclosed it to witness- Sitabai. It is submitted that the statement of Sitabai does not show that any such disclosure was made to her. It is submitted that the applicant is in jail for more than three years. It is submitted that considering the facts and circumstances the applicant may be released on bail.

6. On the other hand, the learned APP submits that apart from the daughter of the deceased, who is the eye-witness to the incident there is one more witness, namely, Namdev Waigade, who on the date of alleged incident had seen the applicant and the deceased together in front of his house. It is submitted that considering the facts and circumstances of the case, the applicant may not be released on bail.

7. It appears from the statement of the witnesses that the applicant had illicit relations with the deceased. I have perused the statement of Namdev Waigade. According to him, he had seen the applicant and the deceased together on the date of alleged incident. Considering the overall facts and circumstances of the case, I am not inclined to release the applicant on bail. Application is rejected.

(N.R. BORKAR, J.)