

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2925 OF 2022

Nitesh @ Nitin Sukhdev Adagale ... Applicant

V/s.

State of Maharashtra ... Respondent

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Mr. Jaydeep D. Mane, Advocate for Applicant.

Ms. P. N. Dabholkar, APP for Respondent-State.

Mr. Navnath B. Mane, Police Constable, Natepute Police Station,
Solapur present.

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CORAM : SHIVKUMAR DIGE, J.

DATE : 6th SEPTEMBER 2023

P C:-

1. By this Application, Applicant is seeking bail in C.R.No. 79 of 2022 registered with Natepute Police Station, District Solapur under Sections 302, 498(A), 323, 504, 506, 507 of Indian Penal Code, 1860 (for short "IPC").

2. It is the prosecution's case that deceased was wife of Applicant. Applicant was ill treating the deceased. He used to beat the deceased. Applicant had demanded Rs.50,000/- from

complainant for paying medical bill. Applicant had beaten the deceased, as complainant had not given amount for buying the tractor. Applicant was demanding the amount for buying the Alto car. It is alleged that on 05.03.2022 at about 9:30 p.m. deceased called complainant from the mobile phone of Applicant and asked him to take her immediately to his house. At that time, she was crying. Complainant heard on phone that Applicant was abusing her. He threatened complainant on phone. On the same day at about 11:30 p.m. complainant called the Applicant and told him that he will come tomorrow to take deceased to his village. It is further alleged that on 06.03.2022, at about 2:30 a.m., Applicant informed to complainant that deceased had hanged herself. When postmortem of dead body was done, in postmortem it revealed that, cause of death was throttling. Thereafter, complainant lodged complaint against Applicant.

3. It is contention of learned Counsel for the Applicant that, Applicant has been falsely implicated in this case. The case is based on circumstantial evidence. No circumstances produced on record to connect the Applicant with the alleged crime. When incident was happened at that time other family members were present in house and no one noticed that Applicant had throttled the deceased.

Learned Counsel further submitted that deceased had hanged herself, there was fracture of hyoid bone neck which is possible by hanging only and not by throttling. Learned Counsel further submitted that witness Vaishnavi, niece of Applicant, at the time of incident she had slept in the house, has stated that in that night when she got up she saw Applicant was sleeping in one corner and she saw her Aunty was hanging to roof.

4. Learned Counsel further submitted that investigation is completed and charge-sheet has been filed. Applicant is behind the bar more than one year. Hence, requested to allow the Application.

5. Learned APP submitted that, Applicant was harassing the deceased for bringing amount from her father. He continuously tortured deceased. The incidents are mentioned in the FIR about mental and physical harassment by Applicant to deceased. On the earlier day of incident, Applicant had beaten deceased and had abused the first informant on mobile phone. Initially, Applicant had created the farce about death of deceased, that she had hanged herself but in postmortem report it revealed that she had been throttled and injuries were found on her neck. It shows involvement of Applicant in the crime. Hence, requested to reject the Application.

6. I have heard both the learned Counsel.

7. Perused the FIR and charge-sheet. In the complaint, it is alleged that after marriage Applicant was harassing deceased. Thereafter, he was demanding amount from complainant. Applicant had demanded the amount for paying medical bill and for buying tractor and Alto car. Witness Anita Misal, mother of deceased has stated the same facts that Applicant was torturing physically and mentally to the deceased. Witness Ashwini Adgale, wife of brother-in-law of deceased has stated that there used to be dispute between Applicant and deceased. Initially, Applicant had declared that deceased had committed suicide by hanging herself. In postmortem report Doctor has given cause of death is due to Asphyxia due to throttling. Postmortem report shows there were injuries on the neck, chest and foot of deceased. In postmortem report it is mentioned that there were blackish, bluish discoloration of both hand fingers and abrasion on right foot great toe 2 X 1 inch. These injuries indicates that, when there was throttling at that time, deceased may have wriggling for life and in that attempt discoloration of both hand fingers and abrasion on toe may have been caused. There are injuries on neck of deceased. Applicant was present in the house when incident was happened. Above facts

shows *prima facie* case against the Applicant. Though other family members were present in the house, it cannot be a ground, to consider that Applicant was not involved in the said crime. The medical report shows that the death was due to throttling. There are allegations against Applicant that prior to death of deceased, Applicant had harassed the deceased mentally and physically.

8. In view of the above, I pass the following Order:-

(i) Application is rejected.

(SHIVKUMAR DIGE, J.)

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