

UDAY
SHIVAJI
JAGTAP
Digitally
signed by
UDAY
SHIVAJI
JAGTAP
Date:
2024.04.02
19:05:01
+0530

Uday S. Jagtap

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

CRIMINAL BAIL APPLICATION NO. 3756 OF 2022

Ajay Ankush Nikalaje .. Applicant

Vs.

The State of Maharashtra .. Respondent

.....

Mr. Sharad T. Bhosale for the applicant

Ms. Anamika Malhotra, APP for the respondent – State

Mr. S.L. Bhandwalkar, PSI, Sinhgad Road Police Station present

.....

CORAM : PRITHVIRAJ K. CHAVAN, J.

DATED : 1st APRIL, 2024.

P.C.

1. This is an application under Section 439 of the Cr.P.C.
2. Heard learned Counsel for the applicant and the learned APP for the respondent - State.
3. The prosecution story in brief goes as follows.
4. The applicant is being prosecuted by Sinhagad Road Police Station, Pune in connection with FIR No.354 of 2021 for the

offence punishable under Section 302 of the Indian Penal Code. The applicant was a caterer by profession, who married to the deceased two months before the alleged incident. It was a love marriage. It reveals from the record that she was of talkative nature. She had several friends with whom she used to have regular conversation either personally or through her mobile phone. The applicant, therefore, was suspecting her fidelity. The deceased was just teenager at the time of her murder. On the fateful day of 20th August 2021, he approached in the house of his friend Nitin M. Sonawane and called him immediately at his house. When Nitin Sonawane had been to the house of the applicant, he noticed that deceased Disha was lying on the floor of the bed room with a orange coloured *Odhani* tied around her neck. Upon being asked, the applicant confessed before Nitin Sonawane that he had killed his wife by strangulating her neck with the help of said *Odhani*. Despite asking the applicant to call his parents and to take the victim to the hospital by his friend Nitin Sonawane, the applicant did not do anything but had given a charger to his friend Nitin Sonawane, to be given to one Raja Kendule.

5. A report came to be lodged. The Investigating Officer visited

the scene of occurrence and the spot panchanama as well as inquest was drawn in the presence of two witnesses. The body was sent for autopsy to the Sassoon General Hospital, Pune. After conducting the autopsy, the autopsy surgeon opined that the probable cause of death was due to “ligature compression of neck with evidence of blunt trauma to head and signs of asphyxia”. Rest of the articles were preserved for Chemical Analysis. After the investigation and as a result of investigation, a charge-sheet has been filed before the Judicial Magistrate.

6. The first unsuccessful attempt to obtain bail by the applicant before the trial Court *inter alia* indicates that the trial Court rejected his application on the ground that the offence is serious and there is none other than the applicant who is responsible for causing homicidal death of his wife by strangulating her neck. The trial Court has also made specific observations as regards conduct of the applicant, who fled away from the spot after commission of the offence and was subsequently arrested from Dattawadi, Taljai Tekadi.

7. Learned Counsel for the applicant has made a futile attempt

to invite my attention to the statement of Nitin Sonawane, which has already been referred hereinabove along with the statement of the mother of the victim namely Ashwini Hasan Shaikh, who had an inter-caste marriage after her first marriage with one Sachin Pandurang Pawar. The deceased was the daughter of Ashwini Hasan Shaikh from her first husband. It reveals from the statement of Ashwini Hasan Shaikh that deceased Disha was a very talkative girl who had a company of several friends with whom she always had conversation. Even after her marriage with the applicant, though *prima facie* it appears that her marital life was quite happy, yet she states that the applicant used to suspect her character. *Prima facie*, it seems that motive in such brutal murder was indeed suspicion of her character.

8. No doubt, the applicant has been incarcerated ever since his arrest but that itself cannot be a ground to release him on bail in light of the fact that in case of his release, he might abscond, which would adversely affect smooth trial of the case. It is not informed by the prosecution as to whether charge has been framed in this case.

9. Looking to the overall circumstances and the material placed on record, I am not inclined to grant bail to the applicant. Consequently, the application needs to be rejected and as such, it stands rejected.

10. The trial Court is directed to frame charge and proceed with the trial at the earliest without granting unnecessary adjournment either to the prosecution or to the defence in view of Section 309 of the Cr.P.C.

11. The application stands disposed of in the aforesaid terms.

12. It is made clear that these are *prima facie* observations without touching the merits and demerits of the case. The trial Court shall not get influenced with the observations made for rejecting the application for bail.

(PRITHVIRAJ K. CHAVAN, J.)