

Mohammad Asgar Vs. State of Maharashtra

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Court : Mumbai

Decided On : Dec-12-2003

Reported in : II(2004)DMC704

Judge : S.B. Deshmukh, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 439; [Indian Penal Code \(IPC\), 1860](#) - Sections 34, 302 and 498A

Appeal No. : Criminal Application No. 3355 of 2003

Appellant : Mohammad Asgar

Respondent : State of Maharashtra

Advocate for Def. : A.S. Sonare, APP

Advocate for Pet/Ap. : A.K. Bhangde, Adv.

Judgement :

S.B. Deshmukh, J.

1. Heard learned Counsel Mr. Bhangde, as well as Mr. Sonare, learned A.P.P. for the respondent/State.

2. The applicant had filed application below Exh. 3 in Sessions Trial No. 372/2003 pending in the Court of learned 4th Additional Sessions Judge of Nagpur for

release on bail. The application filed by the applicant came to be rejected by order dated 20th September, 2003 by the learned 4th Additional Sessions Judge, Nagpur for release on bail. The application filed by applicant came to be rejected by the order dated 29th September, 2003 by the learned 4th Additional Sessions Judge at Nagpur and, therefore, the present application is filed by the original accused in S.T. No. 372/2003.

3. The prosecution case in short is that, the deceased Khurshida Begum, was wife of the present applicant and was being ill-treated by the present applicant on account of demand of Splendor Motor Bike and Colour TV. The prosecution claims that prior to the date of incident for about 7-8 days she was not keeping well. According to the prosecution story the deceased Khurshida Begum is murdered by the present applicant. However, admittedly, there is no direct evidence so as to implicate the present applicant in the alleged murder of Khurshida Begum.

4. The application filed on behalf of the present applicant, came to be rejected by the learned 4th Addl. Sessions Judge by a cryptic order. The learned 4th Addl. Sessions Judge in para No. 3 of the order observed that 'No doubt it seems from the Post Mortem Report that the doctor has reserved opinion regarding the cause of death. However, admittedly the applicant himself had lodged report of incident with police, in presence of the two independent persons and admitted the guilt.' It seems that the alleged admission of guilt by the applicant weighed with the learned Addl. Sessions Judge while rejecting the application for bail. I am afraid that the admission on the part of the applicant regarding commission of the offence can be a ground to reject the application, especially in the absence of any other incriminating evidence regarding culpability of the applicant in the alleged offence. However, I have seen the reply and heard the learned A.P.P. Mr. Sonare who states that the applicant hails from Jharkhand State and in case of release he may not be available for trial of the Sessions Court, pending in the Court of learned 4th Addl. Sessions Judge, Nagpur. The learned Counsel for the applicant states that other accused are released and some of them are also co-accused in this case along with the present applicant and are residing with the applicant at Tajbagh, Nagpur. The learned Counsel states that the applicant may be released on imposition of some conditions regarding attending the Police Station. According

to the learned Counsel the applicant undertakes to remain present as and when the learned Additional Sessions Judge has directed for the trial.

5. In this view of the matter, and considering the fact that applicant hails from Jharkhand State, subject to conditions the applicant needs to be released on bail.

6. The applicant is, therefore, directed to be released on bail, on executing P.R. Bond of Rs. 10,000/- and one surety in the like amount. The applicant is, however, directed to attend Police Station, Sakkardara, Nagpur, once in a week i.e., on every Sunday in-between 9.00 a.m. to 1.00 p.m., till conclusion of the trial.

7. The applicant is permitted to furnish bail in the Court of the learned 4th Additional Sessions Judge, Nagpur

8. The criminal application is disposed of accordingly.

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