

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 427 OF 2015

Jagannath @ Sudhakar Keru Shid	... Applicant
Vs.	
The State of Maharashtra	... Respondent

Mr. Kuldeep S. Patil, Advocate for the applicant.
Mr. D.P. Adsule, APP for the State.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE : **JUNE 30, 2015**

P.C.:

This Application is moved for bail, as the applicant/accused is facing charges under section 302, 376 of the Indian Penal Code. Deceased Aruna was nearly 50 years old lady. The complainant Amol Maruti Thombare is her nephew. The incident has taken place on 21st October, 2014. The deceased used to work in the field of applicant/accused since last 6 years from the date of offence. As Aruna did not return from work till 7 p.m. and her brother Nilesh had received phone from the wife of applicant/accused that granddaughter of Aruna was left at home, they all started searching Aruna. They found Aruna in the field of one Ramesh Salunkhe. Aruna died due to suffocation in the mud. Thus, she was murdered by some unknown persons. The offence was registered at C.R. No. 50 of 2014 at Kasegaon Police Station, District Sangli against the unknown persons. After recording the statement of the witnesses, i.e. on

22nd October, 2014, the applicant/accused was booked for the offence and he was arrested. He is in prison since then. Hence, this Bail Application.

2. The learned counsel for the applicant/accused submitted that there is no evidence against the applicant/accused. The applicant is booked only due to suspicion. The evidence against the applicant/accused does not connect him to the guilt. The contents in the FIR are different and aimed at some unknown persons. However, in the supplementary statement recorded on 21st October, 2014, improvements were made by making allegations of illicit relationship between the applicant/accused and deceased. The learned counsel submitted that the recovery of mud smeared clothes are shown at the instance of applicant/accused, however, he did not hide any clothes. The statement of a child witness Shravani, granddaughter of deceased, which was recorded on 22nd October, 2014 is after thought and manipulated. So also the report of medical examination of the accused person shows that no injuries were found on his person and therefore, the case of the prosecution that there was rape, protest and then murder is false. He further submitted that statement of Nilesh and Rajendra Patil are after thought and manipulated. Considering this, the applicant/accused is entitled to bail.

3. Learned APP opposed the Application. He relied on FIR,

postmortem report and statement of the witnesses. He submitted that it is a case of rape and under section 302, therefore, the applicant is not to be released on bail, as there is sufficient evidence against the applicant. He relied on recovery panchnama of mud smeared clothes, as the body of Aruna was found in the mud.

4. Perused the FIR, supplementary statement of the complainant, statement of other witnesses, statement of child witness where she has stated about last seen together. The cause of death as per postmortem report is death due to asphyxia due to suffocation in a semisolid mud. Clauses 15 and 17 *prima facie* discloses that there is case of sexual assault. After going through the statement of witnesses and considering the circumstances especially the conduct of the applicant/accused and the fact that Aruna on that day worked with him, I am of the view that *prima facie* there is sufficient evidence against the applicant/accused. It is not a case to grant bail. Hence, the Application for bail is rejected.

(MRS.MRIDULA BHATKAR, J.)