

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.102 OF 2015

Harish Chandra @ Hari Motiram Pawar ... Applicant

Vs.

The State of Maharashtra ... Respondent

Ms.Aisha Mohd. Zubair Ansari for the Applicant
Mr.S.S. Pednekar APP, for Respondent – State

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **JUNE 9, 2015**

P.C.:

1. This bail application is moved as the applicant/accused is in prison since 25.10.2013 in relation to C.R. No.54 of 2014, which was registered at Surgana police station for the offences punishable under sections 302, 324, 498A and 120B r/w 34 of the Indian Penal Code. It is the case of the prosecution that one lady Priyanka who was the wife of the principal accused Rajendra Raut was married to Rajendra on 25.5.2013. She was subjected to cruelty at the hands of Rajendra, who used to threaten her that he would kill her. Accordingly, she had communicated the threats and her apprehension to her parents time to time. On the night of 22.10.2013, Rajendra took Priyanka to Nasik and after some purchase or completing the work at Nasik, they were returning to Surgana. On the way, as per the case of the prosecution, Rajendra assaulted her with knife. With the help

of the applicant/accused and other accused, he robbed her of gold ornaments on the person of Priyanka. He gave them money to hide the ornaments and also the knife which was used for assaulting. Accordingly, the present applicant/accused and the co-accused kept the gold articles and the knife at certain places secretly and Rajendra pretended that there was assault by some unknown persons with the intention to rob them. In the assault, Priyanka was badly injured and ultimately, she succumbed to the injuries. The police thereafter registered the offence against the unknown persons. However, they found that it was Rajendra, the applicant/accused and the co-accused have conspired and committed the murder of Priyanka.

2. The learned Counsel for the applicant/accused has submitted that the applicant/accused has not played any active role in the assault at the time of the incident. She submitted that at the instance of this applicant/accused, the ornaments and the knife were recovered. She argued that the applicant/accused was 21 years old and studying in the Second Year B.A. The principal accused Rajendra was a teacher and, therefore, he came in contact with him. She submitted that there are no criminal antecedents. Considering his age and considering the nature of the offence, he has no motive to assault Priyanka, and hence, he be released on bail.

3. The learned Prosecutor pointed out that it is a case of section 302 of the Indian Penal Code. The deceased was brutally assaulted with 5 to 6 blows of knife. He submitted that the involvement of the applicant/accused is evident as the incriminating articles were found at his instance.

4. Read the FIR and the papers which are placed before this Court. The involvement of the applicant/accused and his association with the principal accused No.1 is prima facie seen. There is a recovery at the instance of the applicant/accused of the knife and the ornaments of the deceased. However, this is a peculiar case where the husband has planned and has created a false scene of assault on him and his wife in which the wife has died. There are statements of the parents of the deceased wherein they have mentioned that their daughter Priyanka had received threats of life from her husband i.e., the principal accused Rajendra. Considering the statements, though the involvement of the applicant/accused is seen in the crime, there is prima facie some room to take a view that the applicant/accused has no motive to kill her, as there is no direct evidence to show that whether he has assaulted her or not. There is a statement of a witness that the principal accused had purchased two knives from him a week before the incident. So also, it is considered that the applicant/accused was a student and of 21 years age and came in contact with the principal accused as he was a teacher. In view of this, I am inclined to grant bail on the following terms:

- i) The applicant/accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.100,000/- (Rupees One lakhs only), with one or two sureties in the like amount;
 - ii) The applicant shall not tamper with the evidence;
 - iii) The applicant shall not pressurise the witnesses or indulge into any kind of offence while on bail;
 - iv) In the event the applicant/accused changes his address, he shall furnish the new address to the investigating officer;
 - v) The applicant shall cooperate with the Investigating Officer and attend on all the Court dates.
5. The application is disposed of on the above terms.

(MRS.MRIDULA BHATKAR, J.)