

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

CRIMINAL BAIL APPLICATION NO. 240 OF 2015

Bhawna Hanmant Biradar .. Applicant
V/s.
The State of Maharashtra
(Through P.I. Wakad Police Station, Pune) .. Respondent

WITH

CRIMINAL APPLICATION NO. 165 OF 2015

Bhawna Hanmant Biradar .. Applicant
(Original Accused)
Sudhakar S/o Nivrutti Honrao ..Intervenor
V/s.
The State of Maharashtra
(Through P.I. Wakad Police Station, Pune) .. Respondent

Mr. Harshad Nimbalkar a/w Mr. Presanna P. Patil for the applicant.
Mr. J. H. Ramugade, APP for the State.
Mr. Anoop U. Patil, Intervenor.

CORAM : SMT. SADHANA S. JADHAV, J.
DATE : 09th March, 2015

P.C.

1. Heard.

2. This is an application under section 439 of Criminal Procedure Code. The appellants herein was arrested on 22nd December, 2014 in Crime No. 168/2014 registered at Wakad Police Station, Pune for offence punishable under sections 302, 201 read with 34 of Indian Penal Code. The Learned APP submits that the investigation is almost completed and chargesheet is likely to be filed within a short while.

3. It is the case of the prosecution that the brother-in-law of the present applicant was married to Suvarna on 16th of April 2014. It was a love marriage. There was discord between the two spouses. It is alleged that the present applicant is the sister-in-law of the deceased.

4. On 21st December, 2014 Sudhakar Honrao who happens to be a brother of Suvarna lodged a report at the police station alleging therein that on April 2014, his sister got married to brother-in-law of the present applicant. That the family of the deceased had given sufficient dowry. On 19th July 2014 he had taken his sister Suvarna to his house and at that time she had disclosed that she is being illtreated in her matrimonial house. That the matrimonial family is insisting upon her to wear Saree and they did not allow her to go out door. She was not allowed to use cell phone. Similarly, it is alleged that the present applicant was pursuing her course in Chartered Accountancy. Therefore, she used to remain out of the house. That Suvarna was asked to look after infant child of the present applicant. That she had to carry out the domestic chores single handedly. She was not allowed to go out for service.

5. On 21st July 2014 the present applicant, her husband and other members had gone to the house of the complainant and had fetched Suvarna back to the matrimonial abode. It is further alleged that on 21st December, 2014 at about 8.30 a.m. husband of Suvarna had called upon the complainant and informed him that Suvarna fell on the ground and sustained injury. Hence she has been admitted in Aditya Birla Hospital. The complainant and others had been to the said hospital. In the meanwhile, the police has also

arrived. Suvarna was found dead. The complainant had seen bruises on the dead body of the Suvarna and had arrived at the conclusion that she had died of homicidal death.

6. The postmortem was conducted of the dead body. The Medical Officer has shown the cause of death as multiple injuries. It prima facie appears that the primary evidence against the present applicant is that she happened to be a member of the joint family of the deceased Suvarna. It is alleged that she was present in the house when the incident had occurred but had been a silent spectator.

7. Learned counsel for the intervener submits that it prima facie appears that Suvarna must have sustained injuries at the hands of the members of the matrimonial family. The counsel for the applicant submits that applicant is a mother of 2 year old child. She has been in jail for almost 2 months and hence she is entitled to grant of bail as further incarceration was not warranted.

8. By virtue of proviso to section 437 of Criminal Procedure Code, the applicant being a woman and the mother of an infant child, would be entitled to grant of bail. The applicant has made prima facie case for grant of bail.

9. It is made clear that the co accused shall not claim parity with the present applicant.

10. It is also made clear that the aforementioned observations are prima facie in nature and shall not be considered

for the purpose of quashing of FIR, discharge application or at the time trial.

11. Hence following order:

ORDER

(i) The applicant be enlarged on bail on furnishing P. R. Bond in the sum of Rs. 15,000/- with one or two sureties in the like amount.

(ii) The applicant shall report to the concerned police station on 1st Sunday of every month till the conclusion of the trial.

(iii) The application is allowed.

(iv) The intervening application is heard allowed and disposed of.

(SMT. SADHANA S. JADHAV, J.)