

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

**BAIL APPLICATION NO.536 OF 2015**

Dattatraya Baban Badhe ... Applicant

Vs.

The State of Maharashtra ... Respondent

Mr.Vikas Dhage Patil i/b R.S. Pachundkar for the Applicant

Ms.Veera Shinde, APP, for Respondent – State

Mr.S.N. Rokade, Yawat Police station, Investigating Officer – present

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

DATE: **MARCH 16, 2015**

**P.C.:**

1. This is a bail application is moved by the applicant/accused as he is facing charges under section 302 of the Indian Penal Code pursuant to the FIR lodged at C.R. no.46 of 2013 with the Yawat police station, Pune. The applicant/accused is the son-in-law of the deceased Rekha Gaikwad. Rekha was staying alone at village Koregao Bhivar, Taluka Daund, District Pune. Her son Sagar was married and was not staying with her. Her daughter Pallavi @ Nanda is the wife of the applicant/accused. It is the case of the prosecution that the applicant/accused was holding grudge against his mother-in-law as she was having illicit relations with one witness and was of bad character and so murdered her by strangulating her with the help of a towel on the night intervening 5.3.2013 and 6.3.2013. In the morning of 6.3.2013, at around 7.30am, Pallavi found her

dead. The post mortem shows that the cause of death is asphyxia due to strangulation.

2. On hearing the learned Counsel for the applicant and the learned Prosecutor, it is found that though the offence of murder was registered on 6.3.2013, the applicant/accused was arrested on 27.9.2014 and he is in custody since then. The case of the prosecution is entirely based on the extra judicial confession of the applicant/accused made to his brother in law and also to one Devidas Ashok Jagtap, with whom the deceased Rekha was allegedly having illicit relations. On going through the supplementary statement of Sagar, which was recorded on 26.9.2014, it appears that on 6.3.2013 at the time of funeral of his mother, he noticed some abrasion on the left hand of the applicant/accused and when he questioned about it, the applicant/accused answered that it was not his business. Three months thereafter, according to the witness, the applicant/accused met him and witness Sagar advised him not to drink liquor and take care of his sister. At that time, he told that he should not teach him and his mother was having a bad character and so he killed her.

3. A similar statement is recorded of Devidas Jagtap, who has stated that two months prior to the incident of murder, the applicant/accused was seen in house of Rekha and the applicant/accused expressed his displeasure of his visits to Rekha.

4. Prima facie, a question arises in the mind after going through the statement of Sagar that 3 months after the incident of murder, if the applicant/accused would have disclosed and confessed to him that he committed murder of his mother-in-law, then why Sagar did not go to the police station and told the truth to the police and if at all he was apprehensive of the fate of his sister and so he kept quiet for nearly one year, what was the reason of his then opening his mouth after one year. The delay in disclosure appears prima facie doubtful in view of the other evidence against the applicant/accused.

5. In these circumstances, I am of view that the applicant/accused is entitled to bail. Accordingly, the application is allowed on the following terms:

- i) The applicant/accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.25,000/-, with one or two sureties in the like amount;
- ii) The applicant shall not tamper with the evidence;
- iii) The applicant shall not indulge into any kind of offence while on bail;

**(MRS.MRIDULA BHATKAR, J.)**