

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.669 OF 2015

Devisingh Chhagansingh Pardeshi & anr. ... Applicants

Vs.

The State of Maharashtra ... Respondent

Mr.J.D. Mane for the Applicants

Mr.Arfa Sait, APP, for Respondent – State

Mr.S.G. Mhetre, P.S. Mohol, Solapur (Rural) - present

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

DATE: **JUNE 16, 2015**

P.C.:

1. The application is moved for bail as both the applicants/accused i.e., the husband and wife are prosecuted for the offences punishable under sections 302 r/w 34 of the Indian Penal Code. The offence is registered at C.R. No.440 of 2014 for murder of one Banu Balu Zarekari, a lady of 70 years age. As per the case of prosecution, Balu Zarekari, the complainant, and his deceased wife were staying in front of the house of the applicants/accused. Balu borrowed Rs.10,000/- approximately in the year 2009-2010 and therefore, both the applicants/accused used to demand that money from the complainant. However, it was not possible for him to return the money. The complainant and his wife both were old. They did not have children and so they used to keep quiet. They were harassed by these applicants/accused. On 18.12.2014, the complainant

found his wife on the road. She was injured and was lying on the road. On asking her, she told that the applicants/accused have assaulted her and they demanded the room which was occupied by the complainant and they assaulted her with fists and kicks. She was unable to walk. She was taken to hospital. However, she was dead. She died due to the injuries. Hence, the applicant/accused were arrested on 19.12.2014 and since then, they are in prison. Hence, this application.

2. The learned Counsel for the applicant/accused has submitted that the applicants/accused have not committed any offence. They are innocent. They are inside the prison since December, 2014. He submitted that even though the case of the prosecution is taken as true, they did not have intention to kill her. He, therefore, prays for bail.

3. The learned Prosecutor opposes the application. He submitted that the deceased was 70 years old. However, the applicants/accused have brutally assaulted her to death.

4. Perused the FIR, the chargesheet and the statements of the witnesses and the post mortem notes. The cause of death is shown as cardio respiratory arrest due to intra cardiac bleeding. On perusal of the post mortem notes, it appears that due to some fist blows or kicks, she

had sustained CLW and trauma and which ultimately led to her death. Considering the nature of the injuries and the manner in which the incident has taken place, I am inclined to grant bail to the applicants/accused on the following terms and conditions:

- i) The applicants/accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.40,000/- each, with one or two sureties in the like amount;
- ii) The applicants shall not tamper with the evidence;
- iii) The applicants shall not harass or pressurise in any manner the complainant who is a prime witness in this case;
- iv) The applicants shall attend on all the Court dates and cooperate with the Investigating Officer.

5. Considering the age of the complainant, the learned Sessions Judge is requested to expedite the trial, preferably before December 2016.

6. Bail application is disposed of on the above terms.

(MRS.MRIDULA BHATKAR, J.)