

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 670 OF 2015

Vishwas Ramchandra Walunj
Vs.

... Applicant

The State of Maharashtra

... Respondent

Mr. Uday B. Nighot, Advocate for the applicant.

Mrs. R.V. Newton, APP for the respondent/State.

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

DATE : **JULY 24, 2015**

P.C.:

This Application is moved for bail. The applicant/accused is facing prosecution under sections 302, 201 of Indian Penal Code in C.R. No. 219 of 2014 with Narayangaon Police Station, Pune.

2. It is the case of the prosecution that deceased Anita, who was working as conductor in State Transport, went to meet her brother on 13th April, 2014. As deceased Anita wanted to attend the duty, she left her brother's house on 16th April, 2014. Her brother Sunil dropped her at Pangarimata and told her to call him as soon as she reaches Talegaon. However, he did not receive any phone call, so he searched her. He also verified from Anita's husband, who informed that Anita had not returned home. So, he gave report to the police. The police registered a missing complaint No. 16 of 2014 at Otur Police Station. Thereafter her body was found on 18th April, 2014 in the evening. So, Sunil gave supplementary

statement which was recorded on 23rd July, 2014 where he has expressed his suspicion against the applicant/accused. Pursuant to this, an offence was registered and the applicant/accused was arrested on the same day, i.e. 23rd July, 2014.

3. The learned counsel for the applicant/accused has submitted that there is no evidence against the applicant/accused. Complainant Sunil in his statement did not express any doubt on the applicant/accused, however, in his FIR-cum-statement recorded on 23rd July, 2014 he has mentioned that on 16th April, 2014 at 12 p.m. when he was to drop his sister at Pangarimata, she received one phone call and when he asked her who had called up, she replied that applicant/accused Vishwas had phoned her and he is waiting for her at Narayangaon S.T. Stand, so brother Sunil has mentioned his name. The learned counsel submitted that the prosecution has attributed motive to the applicant, as he and deceased were having illicit relationship. He further submitted that the cause of death as per post-mortem report is asphyxia due to drowning and therefore, he submitted that the applicant/accused is to be released on bail.

4. Learned APP submitted that there are call record details which discloses 6 to 7 phone calls between the applicant and deceased prior to her death. There is evidence to show that applicant/accused and

deceased were having illicit relations. He further pointed out the recovery of uniform and pancard of the deceased from the open space at the instance of applicant/accused. She submitted that there is circumstantial evidence against the applicant/accused and hence, he is not to be released on bail.

5. Perused all the documents relied by the prosecution and defence. CDR discloses that there were phone calls between the deceased and applicant/accused prior to death. So also, it shows that there were illicit relationship between the deceased and applicant/accused. Her pancard was found and uniform was recovered at the instance of applicant/accused. The incident of missing has taken place on 16th April, 2014 and two days thereafter body of deceased was found in the canal. At that time, the complainant did not express any doubt about the involvement of the applicant/accused though he had knowledge of their illicit relationship. If he had knowledge that deceased had received phone call from applicant/accused when he was about to drop her and she had specifically stated that applicant/accused was waiting for her, the complainant should have mentioned it to the police immediately. However, he disclosed this fact for the first time to the police nearly three months after the incident, i.e., on 23rd July, 2014. However, postmortem report discloses cause of death as asphyxia due to drowning. Considering this evidence, *prima facie* I am of the view that it is a case to grant bail.

Hence, the applicant/accused is granted bail on the following terms and conditions:

ORDER

- i) The applicant shall be released on bail upon furnishing P.R. Bond in the sum of Rs.50,000/- with one or two sureties in the like amount;
- ii) The applicant shall not tamper with the evidence or pressurize the witnesses;
- iii) The applicant shall not contact the complainant or his family members;
- (iv) The applicant shall make himself available and attend all Court dates;
- (v) The applicant shall not abscond and furnish his address to the police along with address proof.
- (vi) Violation of any of the conditions imposed shall amount to cancellation of bail forthwith.
- (vii) The applicant shall not leave India without the prior permission of the Court.

6. The Application stands disposed of on above terms.

(MRS.MRIDULA BHATKAR, J.)