

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

CRIMINAL BAIL APPLICATION NO. 718 OF 2015

Gopal Janu Premale & Anr. ..Applicants

v/s.

The State of Maharashtra. ..Respondents

Mr. Nitin Sejpal a/w. Mrs. Pooja Sejpal for the Applicant
Mr. Rajesh More, APP for the Respondent-State.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : DECEMBER 05, 2015.**

P.C.

1. This is an application for bail filed by the aforesaid applicants who are facing trial in Sessions Case No. 79 of 2014 , pending on the file of Addl. Sessions Judge, Raigad, Alibag. The said case arises out of C.R.No. I-03 of 2014 registered at Neral Police Station, for offence under Section 302, 323, 504 r/w. 34 of the Indian Penal Code.
2. The case of the prosecution in brief is that the applicants along with the co-accused committed murder of Suvarna Arun Gopale.
3. Shri Sejpal, the learned Counsel for the applicants submit that

there is no prima facie material to show the involvement of the applicant in committing the said crime. He has further stated that initially in the first information report the informant had alleged that the deceased had committed suicide. The applicants have been implicated in the crime under Section 302 of IPC on the statements of the two minor children, which were recorded after about more than 20 days from the date of the incident.

4. The learned APP submits that the minor children of the deceased have clearly stated in their statements that the applicants herein have administered poison to their mother. He has stated that at this stage there is no reason to disbelieve the witnesses. He has further stated that in the scene of offence panchanama not empty bottle of posion was found at the place of incident and this negates the possibility of suicide.

5. I have perused the records and considered the submissions advanced by the learned counsel for the applicants and the learned APP for the State. The records prima facie reveal that one Suvarna,

who was the daughter-in-law, and sister-in-law of the applicants herein was admitted in the hospital on 11.12.2013 with history of consuming poison. She expired on 21.12.2013. The post mortem report reveals that the death of Suvarna was due to Organophosphorus insecticide CHLORDYRIPHOS (PYRINEX) poisoning.

6. The records reveal that on 7.1.2014 i.e. about more than 25 days from the date of the incident, the brother of the deceased lodged the FIR stating that Arun, the husband of his sister and his family members were casting aspersion on the character of his sister and were subjecting her to cruelty, and as a result, his sister had committed suicide by consuming poison. Based on the said FIR offence under section 306, 323, 504 r/w. 34 of IPC was registered.

7. The records reveal that the statement of Krupali, 12 years old daughter of the deceased was recorded on 18.1.2014 and the statement of Chaitali, the younger daughter of deceased was recorded on 22.1.2014. These children had stated that on

11.12.2013 there was a quarrel between their mother and father, and that their father had assaulted their mother. It is stated that the applicant no.2 herein had handed over one plastic bag to their father and thereafter had sent them out of the house and latched the door of their room. They have stated that they have heard their mother screaming and shouting and when they returned, they saw their mother crying. They have stated that their mother had told them that the applicant and the others had administered poison to her.

8. It is to be noted that both these witnesses Krupali, as well as Chaitali are child witnesses of tender age. Their statements were recorded after more than a month from the date of the incident. It is not in dispute that from the date of the incident these two children were residing with the first informant, despite which they had not disclosed the said incident to the informant. Furthermore, there is no prima facie material to show that the applicants herein had procured the poison. Thus, there is no prima facie material to corroborate the statement of these witnesses.

9. Considering the above facts and circumstances, in my considered view the applicant are entitled for bail. Hence the application for bail is allowed on the following terms and conditions:-

- i) The applicants are ordered to be released on bail in Sessions Case NO.79 of 2014 pending on the file of learned Addl. Sessions Judge, Raigad, Alibag, on the applicants furnishing bail bond of Rs. 25,000/- each (Rupees Twentyfive Thousand Only) with one or two solvent surety/ies in the like amount to the satisfaction of the learned Addl. Sessions Judge, Raigad.
- ii) The applicants shall not interfere with the witnesses in any manner.
- iii) The applicants shall attend the hearing on each and every date before the Sessions Court.

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(ANUJA PRABHUDESSAI, J.)