

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 931 OF 2015

Sagar Fulchand Mor	... Applicant
Vs.	
The State of Maharashtra	... Respondent

Mr. Jaydeep D. Mane, Advocate for the applicant.
Mr. Arfan Sait, APP for the State.
Mr. V.J. Nalavade, P.C. 107, Sangola Police Station present.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE : **JUNE 30, 2015**

P.C.:

This Application is moved for bail, as the applicant/accused is facing charges under sections 302, 201, 376 of the Indian Penal Code and Sections 3, 4, 8 & 12 of Protection of Children from Sexual Offence Act in C.R. No. 264 of 2014 registered with Sangola Police Station, District Solapur. One Shyamrao Namdev Hipparkar, father of deceased Maya, gave complaint to the police.

2. On 24th August, 2014 that when Shyamrao Hipparker returned to his home at around 7 p.m., his wife told him that their 12 years old daughter Maya, who went to buy grocery from the shop at around 5 p.m. had not returned home and so they searched her but she was not found. They enquired about her to the shopkeeper, who told them that at 5.30 p.m. Maya had purchased grocery from his shop and went away. All the villagers started searching for her. In a field of one villager, they found

some blood stains and the grocery items in a scattered condition. Maya's clothes were also found. At around 7.30 to 7.45 p.m. they found Maya's dead body in a well. There were injuries all over her body and it was sent for postmortem. The FIR was given on 25th August, 2014 and the applicant/accused was arrested on 27th August, 2014. Hence, this Bail Application.

3. The learned counsel for the applicant/accused has submitted that there is no evidence against the applicant/accused. He is innocent. The applicant is taken in custody only on suspicion. The learned counsel submitted that there is no eye witness to this incident. He further submitted that the applicant has not committed any offence of rape or murder. He argued that in the panchnama a pan wrapped in a newspaper was found on the spot and as per the case of the prosecution, the applicant/accused has purchased the said pan. Besides this evidence, Investigating officer could not collect any other evidence. Hence, the applicant/accused be released on bail.

4. Learned APP opposed the Application. He relied on the postmortem report. He submitted that a going school girl of 12 years old was raped and murdered within 2 ½ hours after she left her house to buy grocery. Her body was recovered thereafter immediately. Learned APP relied on the statement of witnesses. He pointed out that there is one child witness by name Ashwini Hipparkar and her statement is important. He further

relied on the statements of villagers. On the conduct of applicant/accused, he relied on the statement of Jitendra Sopan Gade.

5. It is true that there is no eye witness. It is a case based on circumstantial evidence. Perused the FIR, statements of witnesses and the postmortem report. As per the postmortem report, the probable cause of death is shock and haemorrhage following forceful sexual intercourse with evidence of head injury. The body of Maya was found within 2 ½ hours after she left her house to buy grocery. Undoubtedly, the cause of murder was sexual intercourse with the girl. The injuries were found on her head and her face was blood stained. The body was thrown in the well. The statement of Ashwini Hipparkar is important, who is 12 years school going girl and classmate of deceased Maya. Ashwini used to help her father in the hotel. It shows that on 24th August, 2014 at around 5.15 p.m. the applicant/accused has visited the shop and asked for pan, which was wrapped by her father in a newspaper and handed it over. In the evening at around 8 p.m. the applicant again came there and tried to outrage her modesty. The statement of villagers disclose post incident conduct of the applicant/accused. Considering the circumstances and as there is a child witness and applicant/accused is likely to threaten her, I am not inclined to grant bail. Hence, the Application for bail is rejected.

(MRS.MRIDULA BHATKAR, J.)