

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1141 OF 2015
(for Bail)

1) Mr. Chandrashekhar Prabhakar Tambat)
2) Mrs. Vandana Chandrashekhar Tambat)..Applicants/Accused

vs.

1) The Senior Inspector of Police)
2) The State of Maharashtra)Respondents

Mr. Rizwan Merchant i/b. Rizqwan Merchant & Associates,for the applicants.

Ms. A.S.Pai, APP, for the State

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 30th June, 2015.

P.C.

Heard. This is an application under Section 439 of Cr.P.C.

The applicants herein are charge-sheeted for the offence punishable under Sections 302, 374 read with Section 34 of Indian Penal Code in Crime No.46 of 2015 registered at Goregaon Police Station and investigated by the Crime Branch. The charge-sheet is filed on 3.6.2015.

2. The learned counsel for the applicant, upon instructions, seeks to withdraw the application of the applicant No.1 at this stage. Liberty as

prayed for is granted in the interest of justice.

3. It is the case of the prosecution that the deceased Jyoti Mokale aged about 27 years was residing with the present applicants since her age of 10. They were taking care of her as the caretaker since her mother had re-married and it was not a very harmonious situation to keep the young girl with her own mother who is residing at Aurangabad. Hence, Jyoti was residing with the present applicants. It is alleged that on 21.2.2015, Jyoti committed suicide by setting herself ablaze in the house of the present applicants, more particularly in the courtyard. She has sustained 100% burns. Initially, A.D. No.6 of 2015 was registered under Section 174 of Cr.P.C. At the time of registration of offence, the applicants herein were being prosecuted for the offence punishable under Section 306 read with Section 34 of IPC. However, it transpired in the course of investigation that in all probabilities, the deceased Jyoti had died a homicidal death and hence the applicants were charge-sheeted for the offence punishable under Section 302 of IPC. The incident occurred at 2.45 a.m. on 21.2.2015. The post-mortem was conducted at 7.55 p.m. on the same day. Prior to conducting of post-mortem, inquest panchnama was conducted and there is an observation in the memo of inquest panchnama. The omentum was

protruding from the stomach of the deceased. The post-mortem notes would show that she had not sustained any external injuries. However, burn injuries were ante-mortem. Carbon particles were seen in the lungs. It cannot be said that the burn injuries were post-mortem. The cause of death is due to sepsis. 100% Deep Tissue Burns with shock (unnatural). The Investigating Officer had taken the opinion of the doctor conducting the post-mortem as to whether the injuries were ante-mortem or post-mortem. The opinion given is that there were no external injuries on the person of the deceased. That the burns were ante-mortem in nature.

4. The learned counsel for the applicant submits that just before commission of suicide, the deceased had written in English on a blackboard "I am very very sorry". "Good morning.", "All the best". According to the learned counsel, the handwriting on the blackboard matches with the handwriting of the deceased on a book as well as a greeting card. The deceased had taken school education only upto 3rd Std. And it cannot be believed that it is her own handwriting. Upon query made by the Court, the learned counsel for the applicant submits that although the applicants were caretaker, they could not send the deceased to school since the birth certificate was not available. It is pertinent to note that the

applicant No.2 happens to be a teacher by profession.

5. The learned APP submits that there is ample evidence against applicant NO.2 in the nature of the statements of the students as well as neighbours alleging therein that she had ill-treated the deceased. However, the said submission made by the learned counsel for the applicant has been refuted by the learned counsel for the applicant on the ground that due to personal enmity, the neighbours have deposed against the applicant No.2.

6. Be that as it may, taking into consideration the fact that the applicant No.2 is in custody since 13.3.2015. That she is 51 years old. The investigation is completed and charge sheet is filed. Hence, there is no question of tempering with evidence. In view of this, by virtue of proviso to Section 437 of Cr.P.C., the applicant No.2 will be entitled to grant of bail after filing of charge sheet. Bail is denied to applicant No.1. Hence, the application of applicant No.1 is withdrawn.

ORDER

(i) The application is partly allowed.

(ii) The applicant No.2 – Mrs. Vandana Chandrashekhar Tambat be enlarged on bail on furnishing P.R. Bond in the sum of Rs.50,000/- with one

or two sureties in the like amount.

(iii) The applicant No.2 be enlarged on provisional cash bail of Rs.50,000/- for a period of four weeks during which she shall complete all the formalities.

(iv) The applicant No.2 shall report to the DCP, CID, Unit-11 on four consecutive Sundays after she is enlarged on bail or till the supplementary charge sheet is filed, whichever is earlier.

(v) The applicant No.2 shall not leave India without permission of the Court.

Application is partly allowed and stands disposed of in the above terms.

(SMT.SADHANA S.JADHAV, J.)