

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.1375 OF 2015

1. Varsha Datta Pawar @ Varsha

2. Miss Nisha Somnath Dhondge ..Applicants

v/s.

The State of Maharashtra. ..Respondent

Mr. Sanjeev Kadam i/b Kishor S. Patil for the Applicants

Mrs. G. P. Malekar, APP for the Respondent-State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED : DECEMBER 17, 2015.

P.C.

. This is an application for bail filed by the applicants who are arrested in C. R. No. 109 of 2015 registered with Taluka Police Station, Malegaon for offence under Sections 302, 143, 147, 148 and 149 of the Indian Penal Code.

2. The aforesaid crime was registered pursuant to the FIR lodged by Ajay Deoman Dhondge wherein he has alleged that on 23/2/2015 the applicants alongwith other co-accused formed an unlawful assembly and assaulted Dattu Tanaji Pawar, husband of applicant No.1 herein by means of iron rods, sticks etc. It Is further alleged that said Dattu Pawar expired as a result of the injuries caused by the applicants and other co-accused. On the basis of avernments made in the said FIR, crime came to be registered and the applicants

herein were arrested on 24/2/2015. Upon completion of investigation, chargesheet was filed before the JMFC, Malegaon and the case has been committed to the Sessions Court.

3. The applicants had filed an application for bail before the Sessions Court, Malegaon and the same came to be rejected by an order dated 9/7/2015. In view of dismissal of the said application, the applicants herein have invoked the powers of this Court under section 439 of Cr.P.C. for grant of bail.

4. Mr. Sanjeev Kadam, learned counsel for the applicants has submitted that the FIR and other material on record do not prima facie show the involvement of these two applicants in committing the offence under section 302 of IPC. He has further submitted that there is variance between the narration of facts in the FIR vis-a-vis the statement of Ramesh Munde. He submitted that the records prima facie indicate that there was a scuffle between the two groups. It is further submitted that the deceased was alcoholic and his death was due to cardio respiratory failure. Learned counsel for the applicants submitted that even if the complaint is considered at its face value, it does not disclose offence under section 302 of the IPC.

5. Learned APP has submitted that the FIR prima facie shows involvement of the applicants in committing the offence. She has further stated that the Post Mortem Report indicates that the deceased had sustained 19 injuries. She therefore claims that the deceased was brutally assaulted and the death was homicidal. She further submitted that the gravity of the offence itself does not entitle the applicants for bail.

6. I have perused the records and considered the submissions advanced by the learned counsel for the applicants and the learned APP. The records prima facie reveal that the applicant No.1 is the wife of the deceased, whereas the applicant No.2 is the sister of the applicant No.1. The deceased was working in the Police Department and was dismissed from service. The matrimonial dispute between the applicant No.1 and her husband led filing of divorce proceedings and the divorce was granted by order dated 14/11/2014.

7. The FIR as well as the statements on record prima facie reveal that after grant of divorce, the deceased Dattu Pawar had gone to the parental house of the applicant No.1 and had insisted that the applicant No.1 should accompany him to the matrimonial house. The records further reveal that the deceased was under the influence of

alcohol. There was an altercation between the applicant No.1, her family members and the deceased over the said issue and the same led to a scuffle. In the course of the said scuffle, the family members of the applicant No.1 had assaulted said Datta and later on tied him to a bullock cart. The FIR does not indicate that the applicant had inflicted any injuries to the deceased. The medical certificate also reveals that the death of Datta was due to alcohol consumption and external polytrauma.

8. Upon considering the nature of the allegations levelled against the applicants, in my considered view, the applicants are entitled for bail. In view of the above facts and circumstances, the application is allowed on the following terms and conditions:

- i) The applicants be released on bail on the applicants furnishing bail bond of Rs.50,000/- (Rupees Fifty Thousand Only) each with one surety in the like amount to the satisfaction of the learned Sessions Judge, Malegoan.
- ii) The applicants shall not interfere with any of the witnesses and shall not tamper with the evidence in any manner.
- iii) The applicants shall attend before the Sessions

Court, Malegoan on each and every date of hearing and
as and when directed.

(ANUJA PRABHUDESSAI, J.)