

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1463 OF 2015

Nagma Ayyas Khan ..Applicant
-Versus-
State of Maharashtra & Ashok
Manjoor Khan ..Respondents

Mr.Arun Rajput i/b. Anjali Patil for applicant
Ms. S.D.Shinde, APP for State
Mr. Ramprakash V. Gupta for intervenor/ complainant.

CORAM : A.S.GADKARI, J.

DATE : 5th December 2015.

P.C.

1] The applicant is seeking bail in C.R.No.61 of 2015 registered with Shivaji Nagar Police Station, Mumbai under section 302 and 201 of IPC.

2] It is the case of the prosecution that on 31st January 2015, the complainant noticed a dead body being burnt in a pit at the dumping ground at Govandi. He, therefore, lodged F.I.R. with the police. During the course of investigation, it was revealed that the name of the deceased was Shaffique Khan. It was also revealed that the said Shaffique was residing with present applicant as her husband

and due to quarrels amongst themselves, the applicant with the help of other two accused persons committed the murder of Shaffique and with a view to destroy the evidence, burnt his dead body at the dumping ground.

3] The investigation is now completed and the charge sheet is filed. Learned Counsel for the applicant submitted that except strong suspicion against the applicant, the prosecution has not produced on record any other evidence thereby connecting the present applicant with the crime. He took me through various statements of the witnesses. Mr.Asif , brother of deceased, in his statement has stated that the applicant was his first wife and his brother Shaffique was residing with her. There used to be quarrel amongst themselves and, therefore, the witness Asif Khan expressed a strong suspicion that due to persistent quarrels, the applicant might have committed murder of deceased.

4] It is the settled position of law that, suspicion howsoever strong it may be, cannot take place of legal proof. A perusal of the entire charge sheet shows that apart from the strong suspicion against the applicant, there is no other incriminating material which shows the complicity of the present applicant in the entire crime.

5] In view of the above, the applicant has made out a prima facie case for her being enlarged on bail.

Hence, following order:-

- (i) The applicant be released on bail in C.R.No.61 of 2015 registered with Shivaji Nagar Police Station, Mumbai on her furnishing P.R.Bond of Rs.25,000/- with one or two solvent sureties in the like amount;
- (ii) The applicant, after her release from jail, shall attend Shivaji Nagar police station on first Monday of every month between 10 am and 12.00 noon till the conclusion of trial;
- (iii) The applicant shall not tamper with and/or influence the prosecution witnesses;
- (iv) The application is allowed in the aforesaid terms;

(A.S.GADKARI, J)