

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2642 OF 2014

Ravindra @ Gotya Ramesh Bachude. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

....

Mr. Ashok Mundargi i/b. Mr. Hrishikesh Mundargi, advocate for Applicant.

Mr. Arfan Sait, APP for State.

CORAM : SMT.SADHANA S. JADHAV,J
DATE : FEBRUARY 9, 2015

P.C.:

1 Heard the learned Counsel for the applicant and the learned APP for State. Perused papers.

2 Learned APP submits that inspite of sending wireless message, the Investigating Officer is not present. Learned APP fairly submits that there is no cooperation from the Investigating Officer and therefore, he could not answer peculiar queries made by this Court.

3 This is an application under Section 439 of the Code of Criminal Procedure, 1973. The applicant herein is charge-sheeted for offence punishable under Section 302 of the Indian Penal Code. The applicant herein is arrested on 21/6/2014 in Crime No. 126 of 2014 registered at Chakan Police Station on 14/3/2014. The investigation is completed and charge-sheet is filed on 10/9/2014.

4 It is the case of the prosecution that on 14/3/2014 Smt. Leelavati Gagan Pawar, wife of Gagan Pawar lodged a report at the police station alleging therein that she works as Anganwadi teacher. She is mother of four daughters. Her first three daughters are married. The fourth daughter was Sonam @ Sonali. Initially Sonali was working in private company in M.I.D.C., Mahalunge. Subsequently, she had stopped working. That the complainant had noticed that her youngest daughter Sonali was in love with Ravindra i.e. present applicant. Upon enquiry, her daughter had allegedly told her that the parents of the present applicant were not approving the said marriage. On one occasion she had also heard the paternal aunt

of the present applicant abusing her on the cell phone. Some time in February, 2014 she had learnt that the marriage of the present applicant is settled and that they were distributing invitation card. He was to get married on 14/3/2014 at Sankalp Garden, Shirol Phata Road.

5 On 13/3/2014 husband of the complainant had been to nearby village to see an ailing relative. On that day, Sonali had committed suicide by hanging in her house. The information was given to the police. The complainant had seen a contusion on the head of her daughter. The body was sent for post-mortem. The spot panchanama and the inquest panchanama as well as post mortem was conducted in A.D. Enquiry.

6 On the next day i.e. on 14th March, 2014 the complainant found a chit/suicide note of Sonam, in the house, in her bag. She had allegedly stated in the suicide note that she had got married to the present applicant on 26th January, 2014 at Ranjangaon. That she

could not tolerate seeing her husband get married with another girl and therefore, she committed suicide. It was subsequently stated that the deceased had no grievance against the present applicant because his parents had not permitted them to get married.

7 The complainant has alleged in the first information report that on 13/3/2014 the applicant had seen that Sonam was alone at home and that she would in all probabilities cause some disturbance or hindrance in his marriage and therefore, he has assaulted her and after she died, he has hanged her to the rafter of the house. On the basis of the said statement, offence was registered against the present applicant for offence punishable under Section 302 of the Indian Penal Code.

8 It is pertinent to note that the applicant was in fact, to get married on 14/3/2014. The relatives of the deceased had created commotion and had pelted stones at the venue of the wedding and

therefore, the marriage was called off. Naturally, the applicant and his family members had fled away from the village.

9 Perused the post mortem notes. It is seen that the deceased had sustained some external injuries as is reflected in the column No. 17. At the time of performing autopsy, the doctor who had conducted autopsy had opined that the said injuries were caused 6 to 7 days before hanging. All injuries were shown as ante mortem. The doctor who conducted autopsy at Rural Hospital, Chakan has opined as follows : “Cardio Respiratory failure i.e. arrest by Asphyxia due to hanging. Associated with ante-mortem head injury and other injuries.”

10 It is pertinent to note that the post-mortem was conducted by a single doctor i.e. Dr. V.B. Sonawane. It clearly appears that subsequently there has been interpolation in the post-mortem notes and the word “strangulation” has been added. The date of issuance of post-mortem has been interpolated. It clearly appears that the said

note was prepared on 10/4/2014. The date is scored of to be read as 14/3/2014. Upon query made by the Investigating Officer, the medical officer has opined by a letter dated 4th August, 2014 that the word “strangulation” was not mentioned in the post mortem notes or in the advance certificate.

11 Although it is expected that two doctors are to conduct autopsy, it was conducted by only one doctor.

12 The doctor has further opined that the external injuries were caused much prior to the death of the deceased. The injuries on the right thy were about 6 to 7 days before hanging. Similarly, the head injury was also caused 16 to 20 hours before post-mortem was done. The injuries on the wrist were also caused more than 16 to 20 hours before post-mortem was done. It is pertinent to note that the post-mortem was conducted on 14/3/2014 at about 8 a.m. and therefore, prima facie, it cannot be said that she had sustained injuries on the date on which she had committed suicide.

13 It is further pertinent to note that on 3/5/2014 the statement of the present applicant was recorded under Section 161 of the Code of Criminal Procedure, 1973. His signature has also been obtained on the said statement, which is in utter violation of Section 161 of the Code of Criminal Procedure, 1973. The said statement finds place in the compilation of the charge-sheet.

14 He has specifically stated that since parents of the deceased had disapproved of the marriage, he had specifically told her that she should forget him. Moreso because, she was being physically assaulted by her family members. Three months prior to the incident she had informed him that her marriage was settled with another person. It was only thereafter, that his family members had seen a proposal for him and he was to get married on 14/3/2014. In view of this, it cannot be said that the applicant was absconding. His whereabouts were known to the police, therefore, his statement could be recorded on 3rd May, 2014.

15 The investigating officer has recorded the statement of one Shankar Ubale on 22/3/2014 i.e. practically 9 days after the incident, wherein he has stated that on 13th March, 2014 at about 4.30 p.m., he had seen the present applicant leaving the house of the deceased hurriedly. He had tried to call him, but the applicant had not stopped.

16 In the facts and circumstances of the case, it is apparent that the investigation is not only tainted, but concocted. The doctor who has performed autopsy has tampered with the post-mortem notes. At the time of trial, the learned Sessions Judge shall take into consideration this aspect.

17 The applicant in the above stated circumstances has made out a prima facie case for grant of bail.

18 Hence, following order is passed :

ORDER

- (i) The application is allowed.
- (ii) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 15,000/- and one or two sureties in the like amount.
- (iii) The applicant shall not tamper with the evidence.

19 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)