

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

7 CRIMINAL APPLICATION NO. 4919 OF 2016

SAYLI W/O MAHESH KHOLLAM

VERSUS

THE STATE OF MAHARASHTRA

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Mr. R.S.Deshmukh, Advocate for Applicant.

Mr. A.S.Shinde, A.P.P. for Resp. – State.

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CORAM : A.M.BADAR, J.

DATE : 27th SEPTEMBER, 2016

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PER COURT :

1. The applicant/accused in Crime No. 117/2016 registered at Kotwali police station, Ahmednagar, Dist. Ahmednagar for the offences punishable u/ss 302,309 of the Indian Penal Code, by this application is praying for releasing her on bail.

2. Heard the learned counsel for the applicant. By drawing my attention to the F.I.R. lodged by the present applicant on 06/04/2016, the learned counsel argued that mental condition of the applicant can be seen from the F.I.R. lodged by her and the reason for taking such extreme step can

also be seen from that F.I.R. itself. The learned counsel further argued that the F.I.R. of the crime in question is lodged only on the basis of the hear-say information by Mahesh Khollam, who is Ex-husband of the present applicant. He further argued that considering the circumstances in which the crime is committed as well as the nature of the crime and the fact that the applicant herself was found to have consumed Organo Phosphorus poison apart from cuts on wrist, her further detention in prison is not warranted.

3. The learned A.P.P. opposed the application by drawing my attention to the papers of medical treatment of deceased Vedangi reflecting history given by the deceased to the Medical Officer. The learned A.P.P. further drew my attention to the statement of Ajinkya Kulkarni and submitted that history written in the medical case papers as well as statement of Ajinkya Kulkarni reflects oral dying declaration of deceased Vedangi pointing finger of guilt to the present applicant. He also drew my attention to the papers of medical treatment of the present applicant.

4. Perused the papers of investigation. As per the prosecution case, the applicant had committed murder of her daughter, named Vedangi, who at the relevant time was about 4 ½ years old. The murder was committed, according to the prosecution case, by administering Organo Phosphorus poison to deceased Vedangi apart from slashing her wrist. It is also averred that the applicant attempted to commit suicide.

5. Perusal of papers of medical treatment of the present applicant found with the papers of investigation, do show that the applicant herself was also admitted to the hospital along with her daughter Vedangi [since deceased]. Papers of medical treatment of the present applicant goes to show that she had also consumed Organo Phosphorus poison apart from slashing her wrist requiring her admission to the hospital. Unfortunately, Vedangi died while taking treatment whereas the applicant, who is her biological mother, survived the incident.

6. The cause of the alleged incident can be gathered from the F.I.R. lodged by the present applicant against one Rajendra Kothule. It is averred by the present applicant in her F.I.R. against Rajendra Kothule that after her divorce with her husband Mahesh Khollam, she came in contact with Rajendra Kothule. The applicant further reported that exploiting her vulnerable condition, said Rajendra Kothule committed rape on her repeatedly and despite her protest, he used to visit her parental house, where she was residing, for her sexual exploitation. The F.I.R. lodged by the present applicant further shows that she decided to end her life, but at the same time she was bothered about future of her daughter Vedangi. The applicant further reported that then she consumed poison apart from administering the same to Vedangi. That is how the incident is seen to have occurred.

7. Without commenting on merits of the case, *prima facie*, it appears that the investigation of the crime in question

is substantially over. The nature of crime and the circumstance in which it is committed, are relevant for deciding whether liberty should be restored to the applicant/accused or not. In the case in hand, fade up with the world, it appears that the applicant had taken extreme step of self-effacement and in that process it appears that her daughter died. The prosecution has not expressed any apprehension that the applicant would not be available for trial in future. Similarly, there is no apprehension that the applicant would tamper the prosecution evidence.

8. In this view of the matter, further pre-trial detention of the present applicant in the crime in question is not warranted. Hence, the following order.

(i) The application is allowed.

(ii) The applicant Sayli W/o Mahesh Kholam in Crime No. 117/2016 registered at Kotwali police station, Ahmednagar, Dist. Ahmednagar for the offences punishable u/ss 302,309 of the Indian Penal Code be released on bail on executing P.R. Bond of Rs. 15,000/- [Rupees Fifteen Thousand] and on furnishing surety in the like amount.

(iii) As a condition of this Order, the applicant shall not extend any threat, inducement or promise to the persons acquainted with the facts of the accusation so as to dissuade them from disclosing the same either to the police or the

Court.

(iv) The applicant shall not tamper the evidence of the prosecution.

[A.M.BADAR, J.]

KNP/Cr.Apln. 4919.2016