

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.437 OF 2016

Hansaben Girishbhai Kosambia .. Applicant
Versus
The State of Maharashtra .. Respondent

Ms.Anjali Patil, Advocate for the applicant.

Mrs.Rutuja Ambekar, APP for the Respondent State.

CORAM : P.N. DESHMUKH, J.

DATED : 21st JUNE 2016

P.C. :

1 Heard the learned counsel for the applicant. Heard the learned Additional Public Prosecutor for the Respondent/State.

2 Accused involved in Crime No.327 of 2015 registered by Kasturba Marg Police Station on 14/09/2015 for the offence punishable under Section 306 read with Section 34 of the Indian Penal Code has sought bail.

3 The learned counsel for the applicant has referred to the documents forming part of charge sheet and has contended that there is nothing to establish involvement of applicant attracting provisions of Section 306 of the Indian Penal Code.

4 The learned Additional Public Prosecutor on the contrary submitted that involvement of applicant providing cruelty

to her deceased husband till the date of incident is established and there are neighbours, who can termed to be independent witness who have stated that there used to be quarrels between her and the deceased. It is also contended that charge is already framed and since trial is likely to be concluded, application be rejected.

5 Perused the FIR lodged by Arunaben-sister of the deceased, wherein it is contended that deceased was married to applicant in the year 1998 and they were having two sons. However, Hansaben – wife of deceased established love relationship with one Prashant Bagwe and on this count, there used to be frequent quarrels between her and the deceased. According to the report, said relations were since two and half years prior to lodging of report and in the month of March 2015, on one occasion in the night hours, deceased has seen his wife with Prashant Bagwe on the loft in their house, upon which deceased has lodged report with Kasturba Marg Police Station and for this reason deceased along with complainant and other relatives decided that deceased should obtain divorce from the applicant and accordingly necessary proceedings were filed. However, applicant since assured deceased that she shall not indulge in such act in future and she be excused, said proceedings were not prosecuted. In spite of that, applicant continued her relationship with Prashant Bagwe, which fact was again informed by deceased to complainant.

6 From the further contents of report it is revealed that since July 2015 applicant was residing separately. It further reveals that on the date of incident i.e. on 12/08/2015, deceased

spoke on phone with complainant and informed her that she along with her other sisters should do something with regard to the illicit relationship of applicant with Prashant. On the same day, at around 3.00 p.m. complainant received telephonic message from her cousin namely Kamuben Solanki informing her that Girish had committed suicide by hanging and thereafter, on the basis of report offence, as aforesaid, came to be registered.

7 From the report, it further reveals that one chit came to be found from below the mattress, which is stated to be of deceased Girish.

8 Having considering the contents of report and since admittedly, there is no investigation carried out with reference to initial complaint lodged by deceased with Kasturba Marg Police Station nor with reference to chit alleged to be found below the mattress in the house of deceased with regard to its handwriting, etc., said contents of FIR are not sufficient to reject the application. The learned Additional Public Prosecutor on obtaining instructions from Investigating Officer, who is present in the Court, has submitted that chit is not forwarded to the Handwriting Expert. No any investigation in this aspect is carried out.

9 The learned Additional Public Prosecutor has invited my attention to statement of neighbour namely Bhikhu Gupta and son of applicant Latin. On perusal of their statements, except for stating that relations between deceased and applicant were strained and in the month of March 2015, they have witnessed

some quarrel between them, they have nowhere stated anything involving applicant to aid or abet deceased to commit suicide on 12/08/2015.

10 Having considering above facts, though the trial is already commenced considering the nature of evidence, as aforesaid, application is liable to be allowed. However, it is specifically stated that the learned trial Judge shall not get influenced with any of the aforesaid observations while considering the evidence and decide the same independently.

11 Application is allowed.

12 Applicant shall be released on bail on her furnishing personal bond in the sum of Rs.20,000/- with one surety in like amount.

13 Applicant shall mark her presence with Kasturba Marg Police Station on 1st and 15th day of each month between 10.00 to 11.00 a.m. and shall attend the trial Court on each date till its conclusion.

(P.N. DESHMUKH, J)