

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE**

CRIMINAL BAIL APPLICATION NO. 1819 OF 2016

1 Popat Vedu Deore.
2 Nirmala Popat Deore. ... Applicants.

Versus

The State of Maharashtra. ... Respondents.

Mr. Mahendra N. Sandhyanshiv, advocate for applicants.

Mr. Rajan Salvi, APP for State.

**CORAM : SMT. SADHANA S. JADHAV, J
DATE : NOVEMBER 29, 2016.**

P.C.

1 After arguing for some time, at the outset, the learned counsel for the applicant upon instructions seeks liberty to withdraw the application filed by the applicant No.1. Hence the application as far as applicant No. 1 is concerned, stands dismissed as withdrawn and disposed of accordingly.

2 In so far as applicant No. 2, the applicant No. 2 has been arrested on 30th May, 2016 in Crime No. 28 of 2016 registered at Jaykheda Police Station on 24/3/2016. Investigation is completed and charge-sheet is filed on 21/6/2016 against the applicant for offence punishable under section 302, 304B, 498A, 323, 504, 506, 201 read with section 34 of the Indian Penal Code.

3 Mohini was married to the son of applicants namely Kishor on 14/5/2015. On 23/3/2016 Ms. S.Y. Sonawane, nurse posted at Rural Hospital, Satana informed the police that on 22/3/2016 at about 9.15 patient namely Mohini Deore was brought to the hospital with a history that she had consumed poison. She was admitted in the hospital by her husband Kishor. Upon admission, Mohini was declared dead. On the basis of the said report, A.D. No. 13/2016 was registered and was investigated.

4 In the course of enquiry in A.D. No. 13 of 2016, the applicant No. 1 who happens to be the father-in-law of the deceased Mohini had shown the place where Mohini had consumed poison and had vomited. The scene of offence is a plat-form abutting the house of the applicants, which is situated in the agricultural land gat No. 108 belonging to the applicant No. 1. At the time of scene of offence panchanama, the panchas had noticed that there was smell of some obnoxious substance, which must have been poison. A bottle of poison was lying nearby. The body was sent for autopsy. The cause of death as mentioned in the post mortem notes is “asphyxia due to combined effect of Manual strangulation and smothering which are sufficient in the ordinary course of nature to cause death individually and collectively. The injuries noted in Column No. 17 are antemortem in nature, fresh in duration. The injuries are caused by pressure by hand or blunt object. From the findings in the post mortem notes, it was clear that Mohini had died a homicidal death.

5 On 24/3/2016 Hansraj Shamrao Shinde i.e. father of the deceased lodged a report at the police station alleging therein that soonafter the marriage Mohini was being harassed and ill-treated by the accused persons i.e. her husband and in-laws. He has narrated the incidents when the history of harassment was informed to him. He has further reported that on 22/3/2016 he had received a phone call that his daughter is serious and that she is admitted in Satana Civil Hospital. He reached the hospital and was informed that Mohini is dead. Her in-laws and the husband had abandoned the dead body and had left the hospital. He could not enquired with anybody. They had noticed that there was white substance oozing from her nose and mouth. He was therefore, sure that Mohini had died of homicidal death, which was further confirmed by the post mortem notes. The applicant No. 1 and his son had misled the investigating agency by informing that she had consumed poisonous substance and had committed suicide.

6 As far as the applicant No. 2 is concerned, she happens to be a

woman, who is in custody since 30/5/2016. The material against the applicant No. 2 is that she had ill-treated and harassed Mohini on various count. The learned APP submits that no leniency be shown to the applicant No. 2 also because it is clearly seen that the deceased Mohini was strangled by more than one person. Husband of Mohini i.e. the son of the applicant No. 2 is in custody.

7 Taking into consideration the fact that the applicant No. 2 is about 48 years old woman, she deserves to be enlarged on bail by virtue of proviso to section 437 of the Code of Criminal Procedure, 1973. It is made clear that the co-accused shall not claim parity with the present applicant No. 2.

8 However, it is made clear that the observations made herein above are prima facie in nature and are restricted to the application under section 439 of the Code of Criminal Procedure, 1973. The learned Sessions Judge shall not be influenced by the same at the time of trial.

9 Hence following order is passed :

ORDER

- (i) The application in so far as applicant No. 1 is concerned, the same is dismissed as withdrawn.
- (ii) The application in so far as the applicant No. 2 is concerned, the same is allowed.
- (iii) The applicant No. 2 be enlarged on bail on furnishing PR. bond in the sum of Rs. 25,000/- and one or more sureties in the like amount.
- (iv) The applicant No. 2 shall not tamper with the evidence.

10 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV, J)