

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

CRIMINAL BAIL APPLICATION NO. 2425 OF 2016

1	Ganesh Mahendra Patil.	
2	Jaydeep Mahindra Patil.	
3	Nitin Ramchandra Kashid.	... Applicants.
	Versus	
	The State of Maharashtra.	... Respondent.

Mr. Sachindra B. Shetye a/w. Ms. Shriya S. Jadhav, advocate for Applicants.

Mr. Y.M. Nakhwa, APP for State.

Mr. Arvind D. Chaudhari, PI, Control Room, Kolhapur.

**CORAM : SMT. SADHANA S. JADHAV,J
DATE : DECEMBER 20, 2016**

P.C.:

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

2 This is an application under Section 439 of the Code of Criminal Procedure, 1973. The applicants herein are arrested on 18/12/2015 in Crime No. 397 of 2015 registered at Shahupuri Police Station,

Kolhapur. Investigation is completed and charge-sheet is filed against the applicants for offence punishable under section 302, 120B, 201 read with Section 34 of the Indian Penal Code.

3 It is the case of the prosecution that Mrs. Vandana Prabhakar Madhav lodged the report at the police station on 17/12/2015 contending therein that she has a two storeyed building. She has given first floor of her building on rent to Indrajeet Kulkarni and his wife Megha. They were original resident of Sawarde, Taluka Panhala. She has specifically stated that Indrajeet Kulkarni was working in medical store, whereas Megha was working in D'Mart. The relatives of Indrajeet Kulkarni used to visit them. However, none of the relatives of Megha have ever visited them.

4 It is further stated that on 16/12/2015 at about 10 p.m., Mrs. Madhav heard the crises of some persons from the first floor. She rushed to the staircase and there she saw two persons descending the staircase. One of them had pushed her aside. The second person was

armed with a knife. She rushed to the house of Indrajeet and there she saw the couple lying in a pool of blood. She called upon the neighbours. Megha was lying in a pool of blood in bathroom. It was specifically stated that one Aditya Patil had seen the assailants. She had given the description of the assailants.

5 It is the case of the prosecution that the applicant Nos. 1 and 2 were accompanied by the applicant No. 3 who was waiting on the road on his motorcycle and soon after the incident, the applicant Nos. 1 and 2 had fled from the scene of offence on the motorcycle of the applicant No. 3. The statement of all the witnesses as far as the involvement of the applicant No. 3 is concerned, is consistent. The learned APP also submits that it is clear that the applicant No. 3 could be charged for harbouring the offenders.

6 Unfortunately, this happens to be a case of Honour killing which affects not only the families concerned, but would shock the conscience of society as a whole. The facts are as follows :

7 It is the case of the prosecution that Megha was in love with Indrajeet Kulkarni. They belong to different castes and that was the bone of contention between both the families. That love had prevailed over all the oppositions of the family members and on 24/6/2014 Megha got married to Indrajeet at Narsobachi wadi, a Holy place closed to Kolhapur. She has not disclosed about her marriage to her parents. On 26/6/2014 she quietly and calmly left the house only to join the company of Indrajeet Kulkarni. On 29/6/2014 father of Megha lodged a missing report at Shahupuri Police Station, which was registered as Missing Case No. 36 of 2014. It was specifically mentioned that they had searched for Megha at all possible places with the relatives, but she was not found.

8 Needless to say that the couple was scared of their families and had apprehended danger and therefore, Indrajeet and Megha had approached Kodoli Police Station on 8/8/2014. They had produced all documents to show that they have got married. The police had

summoned the father of Megha i.e. Mahendra Patil. Megha was fully aware that her family members were annoyed with her. The police had recorded the statement of Megha and Indrajeet as well as their family members. Father, brothers and her uncle were extremely enraged as Megha happens to be the only daughter of Mahendra Patil. Thereafter, Megha and Indrajeet started leading a happy married life in the rented premises of Mrs. Madhav. They were both serving to meet both ends.

9 It appears that the families had nurtured the grudge against Megha for having married a boy of a different caste. According to them, it was demeaning to their dignity and had lowered their image in the society and their Honour was tarnished. It appears that they were waiting for an opportunity to eliminate the couple and finally, on 16/12/2015 they had succeeded in eliminating couple.

10 It is unfortunate that in today's era also, educated girls of today have no right to get married to a person of their choice and the caste, creed, dignity and Honour of family over-weighs individuals.

11 The learned Counsel for the applicants submits that as far as the applicant Nos. 1 and 2 are concerned, they are young boys. The applicant No. 1 is prosecuting his education in Engineering faculty, where as the applicant No. 2 is also a young boy. According to the learned Counsel, the marriage had taken place in June, 2014 and there was no confrontation nor any cause for quarrel for almost 1 and half year i.e. till December, 2015. It is submitted that the papers of investigation do not indicate that there is any independent evidence to even remotely indicate that the applicant Nos. 1 and 2 were nurturing grudge against Megha or Indrajeet and although they have died a homicidal death, the applicant Nos. 1 and 2 have been arrested on suspicion only because they happen to be the brothers of Megha. In such a case, it would be difficult even for the investigating agency to have a independent evidence. The applicant Nos. 1 and 2

have been identified at the test identification parade by witnesses such as Rahul Gurav and others. Learned Counsel submits that the family had in fact, ignored the existence of the couple, and there was no reason for eliminating their existence. The said submission does not hold good ground as there was brutality in this ignorance. Nothing is Honorable about Honor killing.

12 In fact, Megha and Indrajeet were living happy married life and there was no reason for any third person to cause their homicidal death. It appears that some incident had taken place on that day, which had sparked the passion of the applicant Nos. 1 and 2, as they have felt humiliated because of the intercaste marriage of their sister and it is in this circumstance, they have caused the homicidal death of Megha.

13 As far as applicant No. 3 is concerned, the evidence against him is only restricted to the extent that the applicant Nos. 1 and 2 had accompanied him at the time of the incident and that he was waiting

guard on the road. It is not the case of the prosecution that the applicant No. 3 had shared common intention with the applicant Nos. 1 and 2. He had not ascended the staircase of the house of Mrs. Madhav, who has specifically stated that she has seen two boys leaving her place. It is in this circumstance that the applicant No. 3 deserves to be enlarged on bail. However, it is made clear that the applicant No. 3 shall not enter into the jurisdiction of Shahupuri Police Station till the conclusion of the trial.

14 It is made clear that the observations made herein above as far as applicant No. 3 are concerned, 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 hearing of application for quashing of FIR or for discharge or at the time of trial.

15 Hence, following order is passed :

ORDER

- (i) The application is partly allowed.
 - (ii) As far as the applicant Nos. 1 and 2 are concerned, the application stands rejected.
 - (iii) The application of applicant No. 3 is allowed.
 - (iv) The applicant No. 3 be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- and one or more solvent sureties in the like amount.
 - (v) The applicant No. 3 shall not enter into the jurisdiction of Shahupuri Police Station till conclusion of the trial, except for attending the court.
- 16 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)