

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.161 OF 2017

Sudhir Kirankumar Katakdhond	Applicant
versus	
The State of Maharashtra	Respondent

Ms.Manisha Khemka i/by Khemka & Associates for Applicant.
Smt.J.S.Lohokare, APP, for State.
PSI Jayant P. Sarang, Charkop Police Station, is present.

CORAM : PRAKASH D. NAIK, JJ.

DATE : 10th July 2017

PC :

1. This is an application for bail in connection with CR No.261 of 2016 registered with Charkop Police Station, Mumbai. The first information report ('FIR') was registered on 31st August 2016 for offence under Section 302 of Indian Penal Code.

2. The prosecution case is that the deceased Prerana was married to the Applicant about seven years ago. The complainant received an information that the deceased has hanged herself to the ceiling fan and that her daughter Amruta, aged about six years, has been admitted to the hospital. The complainant who is a police constable attached to Charkop Police Station visited the hospital. He met the sister-in-law of the deceased Smt.Mayura Katakdhond. She gave information about the deceased to the complainant. She stated to the complainant that on 21st August 2016, the husband of the deceased who is brother-in-law of Smt.Mayura, called Smt.Mayura

from his mobile phone and informed her that the deceased and the daughter are alone at home and he is going out for work. He also informed that there was a quarrel between the deceased and the Applicant on account of household expenses and that the deceased was in disturbed state of mind. On receipt of said call, Smt. Mayura Katakdhond had visited the house of the Applicant and spoke to her and also asked her the reason for quarrel etc. She also told the deceased that she may come with her along with child. The deceased informed her that she is having head-ache and would not accompany her. Smt. Mayura Katakdhond, therefore, left the house of the Applicant. In the afternoon at about 2.00 p.m. Smt. Mayura gave a call to the deceased and spoke to her. The deceased Prerana informed Smt. Mayura that she would join her after about half an hour. However, since till 3.00 p.m. the deceased did not come, Smt. Mayura gave a call to her which was not responded. Hence the daughter of Smt. Mayura aged about 9 years, was asked to visit the house of deceased which is in the nearby vicinity. The daughter of Smt. Mayura went to the said building and found that the door was closed and there was no response and nobody was opening the door. She informed about the same to her mother Smt. Mayura. Hence, Smt. Mayura proceeded to the house and it was found that that the iron door was closed from inside. She managed to open the door by putting her hand from the gap and pushing the wooden door which was slightly open. When she went inside, she noticed that the daughter of Prerana was lying on the bed. Smt. Mayura then went inside the kitchen and it was noticed that Prerana was hanging at the ceiling fan with a nylon rope. Prerana had hanged herself by nylon rope. She was taken down by neighbours and was then taken to hospital, where she was declared dead. The child was also declared

dead. On receipt of the information, the complainant lodged the first information report under section 302 of IPC. In the FIR, it was stated that the deceased Prerana had killed her daughter and then hanged herself. The offence under Section 302 of IPC was registered. The statement of father of the deceased was recorded on 21st August 2016. In the said statement he has stated that the accused was harassing his daughter and was making the demands of dowry from her. On the basis of said statement, offence under Sections 498 and 306 read with Section 34 was added. The Applicant and his father were impleaded as accused. The Applicant was arrested on 22nd August 2016 and on completing the investigation the charge sheet has been filed.

3. During the course of investigation, on the basis of CDR, it was revealed by the prosecution that at the time of incident, the Applicant was travelling in the local train. The post mortem was conducted. The cause of death was reserved. Subsequently the information as to the cause of death has been received wherein it is stated that there is evidence of ligature mark seen around her neck. Post mortem report does not disclose any injury on the body of the deceased and her daughter. The prosecution case, therefore, rests on the charge under Section 306 and 498A of Indian Penal Code.

4. The learned advocate for the Applicant submitted that the Applicant is in custody from 22nd August 2016. The charge sheet has been filed. The father of the Applicant was granted anticipatory bail. It is submitted that the prosecution case is that the deceased had committed suicide and the Applicant has abetted her to commit suicide. However, there is no evidence to substantiate the said

charge except the statement of the father of the deceased. It is submitted that the version of the father is an after thought as there was no earlier complaint against the Applicant. There was no injuries on the person of the wife of the Applicant and his daughter. Admittedly the Applicant was not in the house when the incident had occurred. The cause of death is also stated to be on account of hanging and poisoning of the child. Learned advocate further submitted that the statements of neighbours recorded by the Police did not indicate that there was any quarrel between the Applicant and the deceased. The statement of Dr.Nikhil where deceased was working, is also recorded. He stated that he did not notice that the victim was at any time in disturbed state of mind.

5. Learned APP submits that the statement of the father of the deceased clearly attributes the role to the Applicant and his father. She was being harassed by them. There used to be demand of dowry and therefore she was compelled to take a drastic step. The Applicant is, therefore, liable to be prosecuted for offence under Section 306 of IPC..

6. I have perused the papers of investigation. After hearing both the sides it can be seen that the prosecution case ultimately rest on the allegation that the deceased has committed suicide and has also killed the child. The FIR was lodged for offence under Section 302 of IPC on the ground that the deceased Prerana had killed the daughter and then committed suicide. Although the statement of the father of the deceased attributes allegation of harassment, the statements of the neighbours which were recorded by the police, do not corroborate the version of the father of deceased. There were no

injuries on the person of the deceased Prerana and the child. The Applicant has been in custody from 2nd August 2016 and the charge sheet has been filed. Taking into consideration the aforesaid circumstances, a case for bail is made out.

7. Hence, I pass following order :

- (i) Bail Application No.161 of 2017 is allowed;
- (ii) The Applicant is directed to be released on bail in connection with CR No.261 of 2016 registered with Charkop Police Station on furnishing PR bond in the sum of Rs.30,000/- with one or more sureties in the like amount;
- (iii) The Applicant is directed to report the investigating officer of Charkop Police Station once in a month, on the first Saturday of every month, between 11.00 a.m. and 1.00 p.m. till further orders;
- (iv) Bail Application is disposed of.

(PRAKASH D. NAIK, J.)

MST