

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION No. 304 OF 2017

Nilesh Pandurang Sutar	... Applicant
Vs.	
The State of Maharashtra	... Respondent

Mr. Vikrant V. Phatate, Advocate for the Applicant.
Mr. Sooraj S. Hulke, APP for Respondent – State.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **6th February, 2017.**

P.C.:

This Application is moved for bail under section 439 of Cr. P.C. The applicant/accused is facing charges under section 302 and 201 of Indian Penal Code in C.R. No. 202 of 2016 registered with Pangari Police Station, Barshi.

2. It is the case of the prosecution that deceased Laxmi Narayan Choudhary had taken divorce from her husband Narayan Choudhart and their children were residing with Narayan at Pimpalwadi, Tal. Barshi and deceased Laxmi was residing at Godsegali Panjari, Taluka Barshi in the house of Suman Arjun Pawar. Deceased Laxmi was having illicit relations with Arjun Sutar, who is brother of the applicant/accused. On 29th September, 2016 co-accused Arjun Sutar met Laxmi in the house of Suman Pawar and he told her to go to farm and he would follow her.

Accordingly, Laxmi went to farm and thereafter she was not seen, however, her body was found on 2nd October, 2016 in the well of Ramchandra Shankar Raut. Thereafter the police were informed about the same and then the police head constable Dhanappa Bhagnath Shete gave information on 4th October, 2016, pursuant to which the offence is registered against the applicant/accused and other accused. The applicant/accused was arrested on 12th October, 2016 and co-accused Arjun Sutar was arrested on 6th October, 2016. Hence, this Bail Application.

3. The learned counsel for the applicant/accused has submitted that the applicant/accused has not committed any offence. He is innocent. The applicant is the brother of Arjun Sutar and, therefore, he is falsely implicated in this case. The learned counsel submitted that there is no evidence against the applicant/accused.

4. Learned APP submitted that the deceased was having illicit relations with applicant's brother Arjun Sutar. He relied on the statement of Bhimrao Vithal Mali, who has stated that on 29th September, 2016 he saw the family members of Arjun Sutar, applicant/accused and Laxmi Choudhary and they were quarrelling. He stated that after quarrel, others went away, however, Arjun Sutar, applicant/accused and Laxmi Choudhary stayed at

the farm of Arjun Sutar and thereafter on 2nd October, 2016 the body of Laxmi Choudhary was found in the well. Learned APP further relied on the statement of Chandrakant Ramchandra Patil wherein he has stated that at around 1.30 a.m. on 30th September, 2016 he saw applicant/accused and his brother Arjun Sutar going on the motorcycle from their farm to Pangari road. He further relied on the statement of Suman Pawar and Chandrakant Patil who have stated that Arjun Sutar and Laxmi Choudhary were having illicit relationship.

5. Heard the submissions of learned counsel for the applicant/accused and the learned APP. Perused the FIR, statements of witnesses and postmortem notes. In the postmortem report it was found that deceased Laxmi died due to asphyxia due to strangulation with post-murder drowning. From the postmortem notes, it is clear that Laxmi was murdered and her body was thrown in the well so that the evidence will disappear. The statements disclose that Laxmi Choudhary and Arjun Sutar were having illicit relations. She was staying in the house of Suman Pawar where Arjun used to visit her everyday. There is evidence that on 29th September, 2016 Arjun Sutar had visited the house of Suman Pawar to meet Laxmi and told her to go to farm. She went towards the farm and he also followed her. There are statements of two witnesses that they have seen applicant/accused, Arjun Sutar and Laxmi Choudhary together

on 29th September, 2016. Considering the role attributed to the applicant/accused, there is no sufficient evidence against him. On query, it is informed that the applicant/accused do not have criminal antecedents. Hence, bail is granted to the applicant/accused on the following terms and conditions:

ORDER

- i) Application is allowed.
 - ii) The applicant/accused be enlarged on bail on furnishing P.R. Bond in a sum of Rs.50,000/- with one or two sureties in the like amount;
 - iii) The applicant shall not commit any criminal activity while on bail;
 - iv) The applicant shall not jump the bail;
 - v) The applicant shall not abscond or leave India without prior permission of the Court and furnish his permanent address to the Investigating Officer alongwith documentary proof of his address;
 - vi) In the event of breach of any of the above conditions, the prosecution will be at liberty to move the Court for cancellation of bail.
6. The Application for bail stands disposed of on above terms.

(MRIDULA BHATKAR, J.)