

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 482 OF 2017

Aarti Ajit Vichare	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent
ALONG		
CRIMINAL APPLICATION NO. 229 OF 2017		

Kshitija Sushil Pawar	...	Intervener
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In the matter between:

Aarti Ajit Vichare	..	Applicant
vs.		
The State of Maharashtra & Anr.		Respondents

Mr. Sandeep Dere, Advocate for the applicant.
Mr. Manish Bohra i/b Mr. Rishi Bhuta for the Intervener.
Mr.V.V.Gangurde,APP, for the State.

CORAM: SMT.SADHANA S.JADHAV, J.
DATE : 24th April, 2017.

P.C.

Heard. This is an application under Section 439 of Cr.P.C.
The applicant herein is charge-sheeted for the offence punishable under sections 302 and 201 of the Indian Penal Code in Crime No.50 of 2017 registered at Charkop Police Station, Mumbai.

2. It is the case of the prosecution that on 20.2.2016, the applicant had assaulted her mother-in-law by using dumbbells. Thereafter she was

beaten with and therefore, she took her son Kaushal to her parents' house, informed her parents that she had assaulted her mother-in-law. Her mother had passed on the said information to the husband of the applicant. Thereafter, she was advised to appear before the police and make a voluntary statement to that effect. Her mother-in-law had died instantly and she was found in a pool of blood. The sister-in-law of the applicant lodged a report at the police station on 20.2.2016 and thereafter on the next day, the applicant had surrendered herself before the police.

3. The learned counsel for the applicant submits that the applicant has a 13-year-old son. Her husband is working with BEST and in these circumstance, there is no possibility that she would flee from justice and that she would be available for trial and therefore the learned counsel for the applicant on sympathetic ground has prayed for enlargement on bail. It is also submitted that at the relevant time, the applicant and the deceased were the only persons in the said room. That the statement of the son of the applicant has been recorded after the applicant had surrendered before the police. The son of the applicant, who happens to be 13 years old, had informed the police in his statement that he had heard cries of his grandmother and when he tried to see what had happened, he saw his mother holding dumbbells and that his grandmother had fallen on the

ground. According to the learned counsel for the applicant, it cannot be said that the son is an eye-witness to the actual assault. It is also submitted that the son had woken up only after he heard cries of his grandmother. The learned counsel further submits that, according to the son of the applicant, he had seen the assault on his grandmother. It is also submitted that he was unaware of the prelude to the incident as he was aware that there was a quarrel between his mother and grandmother and on the basis of the said circumstance, the learned counsel for the applicant submits that the possibility that there was a grave and sudden provocation by the deceased cannot be ruled out.

4. The learned APP submits that all these aspects can be considered at the time of trial only on the basis of the substantive evidence recorded at the time of trial and the same cannot be considered for enlarging the applicant on bail as she has been charge-sheeted for the offence punishable under Section 302 read with Section 201 of the IPC.

5. The learned counsel for the applicant submits that apart from the conduct of the accused at the time of incident, what needs to be considered is the conduct of the accused after the incident. It is also submitted that the applicant herein was suffering from depression disorder with symptoms of paranoid schizophrenia from 22nd July, 2015 at Mukta

Hospital. The certificates are placed on record. On the basis of the certificates, the learned counsel for the applicant submits that the deceased was fully aware that the applicant is suffering from some mental disorder and therefore she ought to have been cautious and not provoked the applicant. All these aspects can be considered only at the time of trial.

6. Taking into consideration the material collected in the course of investigation, more particularly the statement of the applicant herself to her parents and the statement of her son, this Court is not inclined to enlarge the applicant on bail. However, in the given circumstances, the learned Sessions Judge is requested to make every endeavor to conclude the trial expeditiously, as far as possible. The learned Sessions Judge shall conclude the recording of evidence, as far as possible within nine months from the date of framing of charge.

7. The application is rejected and stands disposed of accordingly.

8. The Intervention Application is heard, allowed and disposed of.

(SMT. SADHANA S.JADHAV, J.)