

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 560 OF 2016

Samidha Samir Pimple

.... Applicant/Accused

Versus

State of Maharashtra
through Palghar Police Station.

.... Respondent

Mr. A. P. Mundargi, Senior Counsel a/w Mr. Niranjan Mundargi i/b.
Mr. Vikram Sutaria for Applicant/Accused.
Ms. J.S.Lohokare, APP for Respondent/State.

CORAM : SMT. SADHANA S. JADHAV, J.
DATE : 18TH JANUARY, 2017.

P.C.

. Heard. This is an application under Section 439 of Cr.P.C.
The applicant herein is arrested on 23rd July, 2015 in Crime No. 97
of 2015 registered at Palghar Police Station. The investigation is
completed and charge sheet is filed against the applicant and one
another for offence punishable under Sections 302, 201, 120(B), 34
of Indian Penal Code.

2. It is the case of the prosecution that one Anuj Hareshwar
Pimple informed the police on 9th July, 2015 that on that day at
about 4.00 to 4.45 p.m. his brother had fallen in the bathroom of the

house. He was taken to Dhawale Hospital, where he was declared dead. On the basis of the said report, A/D No. 32 of 2015 was registered under Section 174 of Cr.P.C. and investigation was set in motion. The inquest panchanama was conducted in the A/D enquiry. Sachin Pimple, who happens to be the relative of the deceased was a panch. It was noticed that the deceased had sustained abrasion on the lips, nose and some white substance purged from his mouth. There were no other external injuries on his person.

3. It appears that the statement of the father of deceased was recorded on 11th July, 2015 and he had disclosed to the police that the present applicant, who happens to be the wife of the deceased Samir had illicit relations with one Santosh Sankhe, and therefore, there used to be intermittent quarrels between the couple. According to the father of the deceased, the present applicant with the help of her paramour had caused homicidal death of Samir. On the basis of the said statement, Crime No. 97 of 2015 is registered against the applicant and one another for the offence punishable under Section 302 of Indian Penal Code.

4. The learned Senior Counsel has drawn the attention of this Court to the post-mortem notes of deceased Samir. The cause of death as shown in the post mortem notes is “due to sudden cardio respiratory arrest due to asphyxia of unknown origin. Final opinion will be given after viscera and chemical analysis report”. The CA report indicates that there was no poison detected.

5. The communication between the Investigating Officer and the Medical Officer would indicate that a question was put to the Medical Officer as on what basis the conclusion that Samir has died a homicidal death was disclosed by the Investigating Officer to the relatives of the complainant. On 10th July, 2015, the Medical Officer had informed the Investigating Officer that death may occur after fall in bathroom due to sudden cardio respiratory arrest, however, other cause to be ruled out. The doctor had specifically suggested that the possibility of electric shock in the bathroom is to be ruled out. It is pertinent to note that after the arrest of the present applicant, a pillow was recovered at her instance and thereafter by a letter dated 23rd July, 2015, the Medical Officer, Rural Hospital, Palghar has communicated to the Police Inspector as follows :

“In above case probable cause of death is asphyxia of unknown origin and as per your investigation, probable cause of death due to suffocation by pillow keeping on Nose and Mouth.”

6. The earlier opinion was modified and changed in view of the recovery of the pillow. It is pertinent to note that the Medical Officer has not given an opinion that cause of death could be smothering. The most relevant factor in the present case would be that as on today there is no material on record to clearly indicate that the paramour of the applicant had visited the house of the applicant soon before the death of Samir Pimple i.e. the husband of the applicant.

7. The statement of one Chaitral Patil recorded on 16th July, 2015 indicate that on 9th July, 2015 at about 4.42 p.m. his maternal uncle had received phone call of the present applicant informing him that Samir had fallen on the ground. They rushed to the house of the applicant. They saw Samir had fallen in the bathroom in a supine position. The applicant and the brother of Samir namely, Anuj were trying to wake him up and thereafter Anuj and the applicant had dragged Samir into the drawing room and had also attempted to resuscitate Samir. Some people had gathered for meeting at the ground floor and with their help the doctor was called. Ambulance was also called and then he was taken to Dhawale Hospital. Prima facie it appears that the Medical Officer has not given a definite opinion, that it is a case of homicidal death.

8. It is pertinent to note that a meeting was going on in the ground floor of the said Apartment. The investigating agency has not recorded the statement of any independent witnesses to show that the paramour of the applicant had visited the house of the deceased. Taking into consideration the medical evidence collected by the investigating agency in the course of investigation and the role attributed to the applicant, this court is inclined to enlarge the applicant on bail.

9. In any case investigation is completed and charge sheet is filed. The case rests on circumstantial evidence. Hence, the applicant deserves to be enlarged on bail.

ORDER

- (i) Application is allowed.
- (ii) The applicant be enlarged on bail on furnishing PR Bond in the sum of Rs. 25,000/- with one or more local solvent sureties.

(SMT. SADHANA S. JADHAV, J.)