

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1123 OF 2016

1. Raja Bachchu Patel	)	
2. Bachchu Shankar Patel	).	Applicants
Vs.		
The State of Maharashtra	...	Respondent

Mr. M.K.Giri i/b. Mr. Ramujagir S. Singh, Advocate for the applicants.
Ms. P.P.Shinde, APP, for the State.

CORAM: SMT.SADHANA S.JADHAV, J.
DATE : 5th January, 2017.

P.C.

Heard. This is an application under Section 439 of Cr.P.C.
The applicants herein are arrested on 28.9.2015 in Crime No.153/2015 registered at Talasari Police Station. The investigation is completed and charge sheet is filed on 23.12.2015.

2. It is the case of the prosecution that applicant No.1 happens to be the son of applicant No.2. Applicant No.1 was married to Hema in the year 2012. Initially, the applicants along with Hema were residing at Dahisar in their own house. That Hema was working in a company at

Umbergaon prior to her marriage. That within two years after marriage, the applicants sold their house and had started residing at Zari Patilpada at Talasari. The maternal house of Hema was in close proximity. The parents of Hema used to meet her practically everyday. Hema had informed her parents that the applicants are insisting upon her to part with the money which she had saved in her bank account. There was also demand for jewellery to purchase a motorcycle. Hema had informed her parents about the same. At times, Hema used to visit her maternal house for having lunch. The applicant No.1 was working at Umbergaon.

3. On 15.7.2015, Hema had died in her matrimonial house in suspicious circumstances. The dead body was sent for autopsy. It appears that at the time of death, Hema was pregnant. The weight of the fetus was about 1.1 kg. After performing autopsy, the Medical Officer had opined that the probable cause of death is Asphyxia due to homicidal throttling. Column No.14 of the post-mortem notes also indicated that it was a case of homicidal death. There were bruises on her person.

4. That the applicant No.1 had reported to the police about the death of Hema. According to him, he had taken Hema to Renuka Hospital

on the previous day. On the date of incident i.e. 15.7.2015, according to applicant No.1, he had not gone for service. He returned home in the afternoon at about 1 p.m. and at that time his mother-in-law and his sister-in-law and others informed him that when they went to the house of Hema, they had found her unconscious. All of them had taken Hema to Renuka Hospital. At the time of admission itself, she was declared dead. According to the applicant No.1, his wife was pregnant and in all probabilities, she felt dizzy and had died. He did not express any suspicion against anybody. On the basis of his report, A.D. No.41/2015 was registered under Section 174 of Cr.P.C. Inquest panchnama and other formalities were completed in A.D. Enquiry.

5. It appears from the records that the mother of the deceased had subsequently learnt that the opinion of the medical officer was that she had died a homicidal death due to throttling and, therefore, on 20.9.2015 she lodged a report at the police station alleging therein that there was demand of jewellery from the applicants and that the applicant No.2 had an eye upon his daughter-in-law i.e. deceased Hema. As far as the incident is concerned, she has stated that on 15.7.2015, at about 12 noon, when she was working in the agricultural field, applicant No.2 had been to her and

had asked her to take Hema for lunch to her maternal house and therefore in the afternoon the first informant had been to the house of Hema. She saw that Hema was lying still on the bed. She had seen bluish/blackish mark on her face and neck. It appears that at the time when she had died, she was in the process of cooking food and therefore her hands were filled with flour. That after some time, the applicant had been to the place and had told the first informant that they have not done anything. She was taken to Renuka Hospital at Umbergaon where she was declared dead. On the basis of the said report, Crime No.153 of 2015 was registered against the applicants for the offence punishable under Section 304B read with Section 34 of the IPC.

6. The learned counsel for the applicants submits that there is delay in lodging of FIR which is fatal to the prosecution. It is also submitted that at the time when Hema was found dead in the house, the applicants were not at home and therefore they are not aware of the circumstances in which Hema has died. It is apparent on the face of record that while lodging the report the applicant No.1 had informed the police that she was feeling dizzy due to pregnancy and therefore she had died. As far as the delay in lodging of FIR is concerned, it appears that the parents of deceased Hema had no knowledge for almost two months about the post-mortem findings recorded by the medical officer and only after learning

about the same, they lodged the report and therefore at this stage it cannot be said that the delay in lodging FIR is fatal to the prosecution.

7. The learned APP submits that the first informant is illiterate. They hail from a tribal community. It is also submitted that there is every possibility that the applicants had tried to hush up the matter. That the family members of Hema had no knowledge about cause of death and therefore there was delay in lodging the FIR and the said delay can be explained at the time of trial. No doubt, this is a case of custodial death and the applicants are bound to give an explanation under Section 106 of the Indian Evidence Act. The fact that the father-in-law i.e. applicant No.2 had immediately disclosed to the mother of Hema, that he has not done anything would be sufficient material to indicate his guilty mind. It appears that the plot was hatched. The applicant No.1 had returned home without going for job. The applicant No.2 had specifically asked the first informant to invite Hema for lunch only to see that the parents would find her dead. It is in these circumstances that the applicants do not deserve to be enlarged on bail.

8. The application being sans merits, stand rejected.

(SMT. SADHANA S.JADHAV, J.)