

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 2064 OF 2016

Dadasaheb @ Mukesh Subhash More	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr. S.P. Kadam, Advocate for the applicant.

Mr. S.H. Yadav, APP for the State.

Mr. Shrikant M. Ingale, P.S.I., Tembhorni Police Station, District Solapur.

CORAM: MRS.MRIDULA BHATKAR, J.
DATE: 22nd February, 2017.

P.C.:

This Application is moved by the applicant/accused for bail, as he is facing prosecution for the offences punishable under sections 306, 376, 323, 506 of the Indian Penal Code in C.R. No. 245 of 2016 registered with Tembhorni Police Station, District Solapur. The offence is registered on 24th May, 2016 at the instance of Ramdas Waghmare, father of the victim.

2. It is the case of the prosecution that elder daughter of the complainant was married with the applicant/accused and they had children out of wedlock. However, the applicant/accused was interested in victim, who was the younger daughter of the complainant. She was 19 years old and was doing her nursing

course. The applicant/accused had proposed the victim and told the complainant that he wanted to marry her. However, the proposal was refused by the complainant. So, the applicant/accused used to assault and torture his wife, who is the elder daughter of the complainant. On 16th May, 2016 in the afternoon, the applicant/accused went to nursing college of the victim and told her not to be friendly with the friends in the college and also slapped her. The complainant warned the applicant/accused not to harass his younger daughter. On 20th May, 2016 the applicant/accused along with his wife arrived at the house of the complainant, at that time, the victim complained her father that the applicant/accused held her hand. Thereafter she went down and consumed pesticide. Then she was taken to the hospital and discharged on the next date, i.e., 21st May, 2016. However, on 23rd May, 2016 in the afternoon she left the house and at around 4 p.m. she hanged herself on the tree. A suicide note was found in which she has mentioned that she committed suicide only because of harassment given by the applicant/accused and he had prepared her obscene video clip and used to blackmail her. The applicant/accused was arrested on 31st May, 2016. Hence, this Bail Application.

3. The learned counsel for the applicant/accused has submitted that the applicant/accused is innocent and he has not committed any offence. He relied on the call details record of the cell phone of the applicant/accused and the deceased. He pointed out that there were continuous phone calls made to each other. He submitted that the applicant/accused and deceased were having illicit relationship and finally she committed suicide. The learned counsel further submitted that he has handed over his cell phone to the police, however, till today no such video clip is produced by the police. He submitted that charge sheet is filed.

4. Learned APP while opposing this Bail Application has relied on the medical report given by the medical officer, Primary Health Centre, Tembhurni. Tal. Madha dated 6th June, 2016 stating that the deceased had sex before she committed suicide, as semen was found in vagina. He further submitted that the applicant/accused is facing charges not only under section 306 but also under section 376 and he relied on the statements of the complainant, wife of the applicant/accused and mother of the deceased where the witnesses have quoted the instances and nature of harassment at the hands of the applicant/accused. He also pointed out and relied on a suicide

note written by the deceased wherein she has specifically mentioned the reason of her suicide that the harassment caused by the applicant/accused especially he has prepared obscene video clip of her and had threatened her that he would circulate it and was blackmailing her. Learned APP further submitted that in order to save her and her family's reputation, the girl committed suicide only because of the applicant/accused.

5. Perused the FIR, statements of the witnesses and suicide note found on the dead body immediately after the incident of suicide. On considering the submissions of learned counsel of both the sides and the evidence placed before me, a possibility of applicant/accused and deceased having illicit relationship cannot be overruled. The applicant/accused had proposed the deceased, he went to the college, slapped her in presence of her friends. It shows that he was very dominating and possessive about her. The police till today did not place before the Court any video clip of the deceased recovered from the cell phone of the applicant/accused. The learned Prosecutor on instructions submitted that no such video clip was found. In the suicide note, she has mentioned specifically that the accused was blackmailing her on the basis of obscene video clip and she wanted

to save her and her family's reputation. On this background, the report of the medical officer is to be referred wherein it is mentioned that the deceased had sex before the death and semen was found in vagina, however, a fact of forcible sexual intercourse/rape is not mentioned in the suicide note which ought to have been mentioned if it would have been occurred. Thus, *prima facie* if all these documents are taken into account, then the submissions made by the learned counsel that the applicant/accused and deceased might have been involved in relationship, may be correct.

6. Apart from section 376 of Indian Penal Code, the applicant/accused is also prosecuted in the offence under section 306. There was the incident of slapping her in the presence of her friends which has taken place 7 to 8 days prior to the incident of suicide. There are many incoming and outgoing call records between the cell phones of applicant/accused and deceased. There is no *prima facie* evidence to show abetment as regards under section 107 of the Indian Penal Code. Under such circumstances, I am inclined to grant bail 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.40,000/- with one or two sureties in the like amount;
- (iii) The applicant shall not tamper the evidence;
- (iv) The applicant shall not pressurize the complainant or witnesses;
- (v) The applicant shall not jump the bail;
- (vi) The applicant shall attend all the court dates;
- (vii) 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;
- (viii) 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.

7. The Application for bail stands disposed of on above terms.

(MRIDULA BHATKAR, J.)