

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 2552 OF 2016

Sushant Vilas Pathare

...Applicant

Versus

The State of Maharashtra

...Respondent

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Mr.Aniket Nikam i/b. Mr.Aashish Satpute for the Applicant.
Mr.S.H.Yadav, APP for the State-Respondent.

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CORAM : MRS.MRIDULA BHATKAR, J.
DATE : 8th March 2017

P.C. :

1. This application is moved for bail as the applicant-accused is facing charges under Sections 302 and 201 of the Indian Penal Code in C.R. No. 83 of 2016 registered with Vavi Police Station, Nashik. Shri Ranjit Suryakant Andhale, API, Vavi Police Station, Taluka-Sinnar, District- Nashik gave a statement on 4th May 2016, pursuant to which the offence is registered.

2. It is the case of the prosecution that, on 3rd May 2016, Shankar Laxman Shelke gave information of accidental death of Vaishali Pathare to Vavi Police Station and therefore, C.R. No. 23 of 2016 under Section 174 of Cr.PC is registered with Vavi Police Station. The wife of

the applicant-accused has died because of consuming poisonous liquid, and thereafter, the police went to the spot and they found that her body was lying in the kitchen and the blood was coming through her nostril. They found abrasions marks on her neck and chin. There was one suicide note on her chest, wherein she has mentioned that she is committing suicide. The *post mortem* was conducted and it was found that she died due to strangulation, asphyxia and cardio respiratory. The police are of the opinion that it was a murder, and hence applied sections 302 and 201 of the Indian Penal Code. The applicant-accused was arrested on 5th May 2016. Hence, this bail application.

3. The learned counsel for the applicant-accused submits that he is innocent. This is a case of suicide and the police have wrongly applied sections 302 and 201 of the Indian Penal Code in the present case. He has further submitted that no head injuries were found in the *post mortem* report, though at the time of inquest panchanama, it was mentioned that blood spots were found on both sides of her head. He further submitted that no other injuries were found on her body and abrasions were caused to her chin when her body was taken down. He has further submitted that a suicide note was immediately found on her body, wherein she has mentioned that no one should be held responsible for her death as she has voluntarily decided to end her life.

The learned counsel for the applicant-accused relied on the statement of one Pankaj Sadashiv Nagare, who, at that time, was watching T.V. in the house and he has stated that the applicant-accused came in the house and went up and within five minutes he heard cries of the applicant-accused. The learned counsel has also relied on other witnesses, who have also stated that the applicant-accused was crying when they entered there. The learned counsel has further submitted that the applicant-accused is innocent and he has not committed any offence. There is no evidence of murder against the applicant-accused.

4. The learned prosecutor, while opposing this application, has relied on the statements of the witnesses, so also the *post mortem* report. He has further submitted that the deceased was strangled and she was murdered and blood was coming out from the nostril of the deceased, as was found at the inquest panchanama. The learned prosecutor further relied on the said panchnama wherein no object was found to which the lady could have hanged herself in the kitchen. It is further submitted that the statements of the witnesses disclose that there were disputes between the husband and wife, and accordingly she complained to her parents. He further relied on the statements of the father of the applicant-accused and other persons, who have stated that she died because of consuming poisonous substance, which are false.

5. Perused the F.I.R., statements of the witnesses, the *post mortem* report and the suicide note. Though, in the suicide note the deceased has mentioned that she has voluntarily decided to commit suicide and nobody should be blamed, *prima facie*, a suicide note cannot be considered as authentic, if the medical report as well as the *post mortem* report speaks something else. From the *post mortem* report, it cannot be easily considered that it is a case of death by strangulation, asphyxia and cardio respiratory. The scar which found around her neck is of round shape. Moreover, from the statements of the witnesses and the father of the applicant-accused, it is found that they all initially said that she has committed suicide by consuming poisonous substance. If at all she had hanged herself, then, why they all introduced consumption of poisonous substance. *Prima facie*, there is evidence against the applicant-accused. Hence, bail application is rejected.

6. Bail Application is rejected accordingly.

(MRIDULA BHATKAR, J.)