

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL APPLICATION (BAIL) NO. 125 OF 2018

SHEVANTI DESSAI, PRES. IN JUDICIAL
CUST. CENT. JAIL, COLVALE, THR.
NEXT OF FRIEND, DEVITA DESSAI., ... Applicant

Versus

STATE, THR. THE PUBLIC PROSECUTOR
AND ANR., ... Respondents

Shri Arun De Sa and Shri Sidhesh Shet, Advocates for the
Applicant.

Shri Mahesh Amonkar, Additional Public Prosecutor for the
Respondents.

Coram:- C. V. BHADANG, J.

Date:- 25th April 2018

P.C.

This is an application for bail. The applicant along with her son, has been chargesheeted, for the offence punishable under Section 302, read with Section 34 of IPC.

2. The prosecution case is that there was a dispute, between the deceased Suryakant Dessai and the applicant in respect of boundary wall/boundary stone between their houses. Earlier, there was an incident on 23.02.2018 at Gaowada, Xelvona, Curchorem, wherein the deceased had assaulted and abused the applicant and had slapped her and had also assaulted her with fist blows. On the basis of the complaint lodged by the applicant,

N.C. Case No. 42/2018 was registered against the deceased under Sections 323 and 504 of IPC. The incident in question happened later on the same day at about 15:30 hours to 15:45 hours. Prima facie, after going through the statements of the eye witnesses, who are the labourers, it appears that there was an altercation between the applicant and the deceased, on the point of removal of the boundary stone. It is said that the son of the applicant came on the spot and accosted the deceased as to why, the deceased was abusing the applicant. Prima facie, it appears that the son of the applicant picked up a spade lying on the spot and assaulted the deceased on the backside of the head. The deceased succumbed to injuries on the following day.

3. I have heard Shri De Sa, the learned Counsel for the applicant and the learned Additional Public Prosecutor for the respondents. Perused the chargesheet and the statements of the eye witnesses. Prima facie, as noticed earlier, it does appear that there was a long standing dispute between the deceased and the applicant on the point of boundary wall/boundary stone and there was an altercation going on between the applicant and the deceased, when the son of the deceased accosted the deceased as to why, he was abusing the applicant and picked up a spade and gave a blow on the head of the deceased. On perusal of the statement of the eye witnesses, prima facie, it appears that the son of the applicant thereafter fled away from the spot. Prima

facie, the material does not indicate that a common intention to cause the death of the victim, can be attributed to the applicant. It is neither necessary nor appropriate to appreciate the material in details, else at the risk of prejudice to the prosecution or the accused at the trial. The investigation is complete and the chargesheet is filed. The applicant being a lady, would also be entitled to the benefit of proviso to Section 437 of Cr.P.C.

4. Shri Amonkar, the learned Additional Public Prosecutor submitted that the widow of the deceased along with two minor sons are the only the occupants in the neighbouring house and there is likelihood of the applicant tampering with the prosecution witnesses.

5. In my considered view, the apprehension expressed on behalf of the State, can be taken care of by imposing appropriate conditions.

6. In the result, the following order is passed:

O R D E R

(a) The applicant shall be released on bail on execution of a P.R. Bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

(b) The applicant shall not influence or tamper with prosecution witnesses or evidence.

- (c) The applicant shall not indulge in any offence, while on bail and shall keep peace.
- (d) In the event of breach of any of the conditions, the bail is liable to be cancelled.
- (e) Bail Bonds to be furnished before the learned Sessions Judge.
- (f) The observations herein are for the limited purpose of deciding the application for bail and the learned Sessions Judge, shall not be influenced by any of the observations herein, at the trial.

C. V. BHADANG, J.

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