

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1504 OF 2018**

Sheshabai Appasaheb Patil. .. Applicant.

V/s.

The State of Maharashtra. .. Respondent.

Mr. Aniket U. Nikam I/b. Mr. Aashish Satpute, advocate for applicant.

Mr. Rajan Salvi, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J.

DATE : JULY 11, 2018.

P. C. :

1 Heard the learned Counsel for the applicant and the learned APP for State.

2 This is an application under section 439 of the Code of Criminal Procedure, 1908. The applicant herein is arrested on 18/8/2017 in Crime No. 369 of 2017 registered at Mangalvedha Police Station, District Solapur. The investigation is completed and charge-sheet is filed against the applicant and others for offence punishable under section 302, 201 read with section 34 of the Indian Penal Code.

3 It is the case of the prosecution that on 17/8/2017 foul smell was emanating from the agricultural land of Appasaheb Patil who

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happens to be husband of the present applicant. The police were called and the dead body was identified to be that of Suhas, son of Appasaheb Patil. The present applicant happens to be the step-mother of deceased Suhas. The body was sent for autopsy and the post mortem notes indicate that the cause of death is due to strangulation. On 18/8/2017 Shivaji Bhagvat Patil @ Nichare who happens to be the maternal uncle of the deceased Suhas i.e. the brother of his biological mother lodged a report at the police station alleging therein that the present applicant is the step-mother of the deceased Suhas. That the maternal uncle Shivaji Patil has settled the marriage of Suhas with one girl of village-Babulgaon. However, his parents i.e. husband of the present applicant and the present applicant as well as their son Vivekanand and his wife Pallavi were against the idea of giving any finance for the said marriage. It is his case that they were not willing to get him married. On 4/8/2017 Suhas had called upon the first informant at about 10.30 to 11 p.m. and had informed him that he had demanded money from his parents and they were enraged by the same and were assaulting him. He was asking his maternal uncle to save him and at that time, he had heard the voice of sister of the deceased asking them not to assault Suhas. Thereafter, the complainant could not reach up to Suhas as his phone was switched off. He had made every attempt to search for him and finally, he had found dead body of Suhas on 17/8/2018 in decomposed state.

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4 Learned APP submits that pieces of bangles which match with the bangles of the present applicant were found on the spot and therefore, the applicant does not deserve to be enlarged on bail. However, this material may not be sufficient to implicate the applicant for an offence under section 302 of the Indian Penal Code. The applicant is a woman. The cause of death is strangulation and it would be necessary to overpower the deceased for the purpose of strangulation. In these circumstances, the applicant deserves to be enlarged on bail.

5 However, it is made clear that Appasaheb Patil and Vivekanand shall not claim parity with the present applicant as there is material to show their complicity in the homicidal death of Suhas Patil.

6 The observations are restricted to the application under section 439 of the Code of Criminal Procedure, 1973 and the same shall not be considered for discharge application or at the time of trial.

7 Hence, following order is passed :

ORDER

(i) The application is allowed.

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(ii) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 50,000/- with one or more solvent sureties in the like amount.

(iii) The applicant shall not tamper with the evidence.

8 The application is disposed of accordingly.

[SMT. SADHANA S. JADHAV, J.]