

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO. 1942 OF 2018

Smt. Jaylaxmi Vijaykumar GuravApplicant

V/s.

The State of MaharashtraRespondent

Mr. A.S. Khandeparkar I/b. Khadeparkar & Associates for the applicant.
Ms. Pallavi N. Dabholkar, APP for the State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED: 10th SEPTEMBER, 2018.

P.C.:

. This is an application under Section 439 of Criminal Procedure Code, filed by the aforesaid applicant, who has been arrested in C.R.No.229/2017 registered at Sawantwadi Police Station, District Sindhudurg for offences punishable under sections 302, 201 of the Indian Penal Code.

2. Heard Mr. A.S. Khandeparkar, learned counsel for the applicant and Ms. Pallavi N. Dabholkar, learned APP for the State. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties.

3. Mr. A.S. Khandeparkar, learned counsel for the applicant contends that the case is based solely on circumstantial evidence. He further

contends that the circumstances sought to be relied upon by the prosecution do not *prima facie* prove the involvement of the applicant in commission of the crime. He submits that the applicant is a widow of the deceased and that she is the only person who can take care of the family members. He has submitted that the son who is one of the prosecution witnesses, has already filed an affidavit before the Sessions Court wherein he has stated that if his mother is released on bail then, she is likely to pressurize and compel them to give false evidence, was in fact made at the instance of the paternal aunt and that the contents of the said affidavit are not correct.

4. Ms. Pallavi Dabholkar, learned APP submits that there is *prima facie* material on record to show that the applicant was having illicit relationship with the co-accused Suresh Chouthi. She further submits that there is *prima facie* material to show the involvement of the co-accused Suresh Chouthi. She has also submitted that blood stains were found in the house of the applicant and that there is no explanation in this regard. Furthermore, the conduct of the applicant in giving false information to her son and telling him to make such false statement in the missing report, is also one of the circumstances against the present applicant.

5. I have perused the application and considered the submissions advanced by the learned counsels for the respective parties.

6. The material on record *prima facie* reveals that while on duty, the Assistant Police Inspector (API) – Shri. Arun Shantaram Jadhav of Sawantwadi Police Station, on 11/11/2017 had received information that some blood stains were seen on the foot path at Gele Kawdesaad. He and other police personnel alongwith emergency squad and some other villagers proceeded to the site. They saw blood stains on the railing adjoining the road. When they went down the valley, they found one decomposed body of a male person. His head was covered with plastic and a rope was tied around his neck. The dead body was subsequently identified by Anup, as that of his father Vijaykumar Gurav.

7. The records reveal that on 08/11/2017, Anup Gurav had lodged a missing report that his father Vijaykumar who had left the house on 06/11/2017 at 11:00 p.m., had not returned home. He had stated that while leaving the house, his father had told that he would return soon and if not he would directly go to school and return by next evening. His father did not return home and it was learnt that he had not attended the school. Hence, he lodged the missing report.

8. It is to be noted that after recovery of the body, the statement of

Anup Gurav was recorded on 08/11/2017. He had stated that he was at home during diwali vacation from 05/11/2017 to 16/11/2017. On the next day, he tried to call his father but the phone was received by his mother, the applicant herein. She told him that the deceased had left the house on 06/11/2017 at 11:00 p.m. stating that he would return soon or by next evening but had not returned. When he went to the Police Station to lodge a missing report, his mother took him aside and told him to tell the police and the neighbours the same facts as narrated by her. He has stated that the co-accused had stopped visiting their house ever since the body was found. He has also claimed that his paternal aunts used to accuse his mother and were taunting her. He had also stated that his father used to help his sister financially and that his parents used to quarrel over this issue. The statement of this witness *prima facie* reveals that his mother i.e. the applicant had told him to make a false statement before the police and the neighbours.

9. The statements of the other witnesses *prima facie* reveal that the applicant was having illicit relationship with the co-accused-Suresh Chouthi and that there used to be fights between the applicant and her husband because of her relationship with said Suresh Chouthi. There are also statements of witnesses which *prima facie* indicates that the

applicant and the said Suresh Chouthi had stayed in a Hotel Evergreen Kisangarh. The statement of witness Abhishek Gurav reveals that on 07/11/2017, his mother had told him that the deceased had left the house alongwith his friend. His statement also *prima facie* indicate that his mother had told him to wash the Maruti Omni Car and that he and his brother had washed the said car thoroughly. He has also stated that both the car mats from the said car were missing.

10. It is to be noted that the material on record *prima facie* reveals that apart from the other articles such as mattress, bedsheets, blood-stained black cover rexin car mats were recovered at the instance of the co-accused-Suresh Chouthi. In addition to the above circumstances, the material on record also indicates that the police had visited the house of the applicant and that they had found blood stains on the window panes as well as on the wooden stand. The sample of the blood stains have been taken and the same have been sent to forensic laboratory for examination. Finding of blood stains in the house of the applicant, is yet another *prima facie* circumstance which points at the involvement of the applicant in the crime.

11. It is to be noted that two main prosecution witnesses are the sons

of the applicant. It has been brought to my notice that Anup, the son of the applicant had filed an affidavit before the Sessions Court. A copy of the same is produced by Mr. A.S. Khandeparkar, learned counsel for the applicant. The said affidavit indicates that the witness had earlier filed an affidavit before the Sessions Court opposing the release of the applicant on bail on the ground that the applicant who is the mother would pressurize them in giving false statements. By the subsequent affidavit, copy of which is place on record, the witnesses had claimed that the earlier affidavit was filed at the instance of his paternal aunts. In short, the prosecution witness who is the son of the applicant has filed two contradictory affidavits before the Sessions Court. Suffice it to say that such practice of filing affidavits in the case which is pending trial, is to be deprecated and warrants deterrent action. However, considering the fact that the son of the applicant is a young college going boy and any action can jeopardies his carrier, this witness is put to notice that any such interference in the administration of justice will entail severe consequences in accordance with the law.

12. Considering the above facts and circumstances, Bail Application is dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)