

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

CRIMINAL BAIL APPLICATION NO.447 OF 2018

Sonali Pravin Pawar

..Applicant

vs.

The State of Maharashtra

...Respondent

Mr. A.P. Mundargi, Senior counsel a/w Mr. Jayant Bardeskar I/b Mr. Pradeep P. Khittani for the Applicant .

Mr. S.R. Agarkar, APP for the Respondent.

Mr. S. S. Bhujbal, PSI Dighi Police Station, Pune City.

CORAM : P. N. DESHMUKH, J.

DATE : 28th FEBRUARY, 2018

P.C.:

. This application is filed by the sister-in-law of the deceased Namrata in C.R. No.187/2017 registered at Dighi Police Station for the offences punishable under sections 498-A, 306 read with 34 of IPC for grant of bail.

2. The investigation is completed and chargesheet is filed before the Competent Court. Apart from that, the other co-accused who are involved in this crime are the husband, the father-in-law, the brother-in-law and the sister-in-law viz., Sonali Pawar (the present applicant) and Sheetal Pawar. It is submitted that this Court has already released the father-in-law Vasudev Shelar on bail and rest of the applicant have not filed any application for bail.

3. Mr.Mundargi, learned senior counsel appearing for the Applicant by referring to the contents of the report lodged by Shri Suresh Nikam, the father of the deceased has demonstrated that from the contents of these documents it cannot be said that the deceased was subjected to

cruelty and as such had committed suicide.

4. It is further submitted that after the deceased was admitted in the hospital her statement was recorded in the presence of Doctor by police and as per the said statement nothing reveals against the applicant. Learned counsel also referred to the statement of Doctor Patwardhan in whose presence the statement of deceased is recorded in the hospital.

5. It is further submitted that apart from the said statement of the deceased, even on considering submission of her relatives being the brother, the mother and one Lalita, friend of the deceased nothing can be said to establish involvement of the applicant in this crime in any manner. Learned counsel for the applicant referred to the statement of friend of the deceased as well as one diary which is relied by the prosecution for the purpose of establishing the involvement of the Applicant in the present crime to establish alleged ill-treatment provided to the deceased.

6. Mr.Mundargi, learned counsel by referring to the contents of the diary further submitted that this piece of evidence is not at all sufficient to establish involvement of the Applicant.

7. Mr.Agarkar, learned APP for the State from the documents filed in the chargesheet has referred mainly to the diaries and its contents to establish involvement of the applicant and submitted that in the diary which is of the year 2017 there are entries made by the deceased with reference to the ill-treatment given to her at her matrimonial home and contended that in view of the notes taken by the deceased which she was writing on a regular basis there is sufficient evidence to establish the involvement of the applicant and prayed that the application be rejected.

8. On perusal of the FIR, it is revealed that deceased was married to Vishal Shelar some time in May 2015 and 10-15 days thereafter she was subjected to ill-treatment. The reasons put forth in the statement with reference to alleged ill-treatment is that the deceased was unable to press clothes, cook, provide hot water for bath and was in the habit of watching TV and on these counts it is alleged that she was subjected to ill-treatment by her husband and his relatives. On bare reading of the alleged contents of the report as such it is found that the reasons put forth does not establish any element of cruelty at the hands of husband and relatives. It is material to note that in fact the applicant who is married and as such was residing at Pune and even on the day of incident dated 5/10/2017 she was in her matrimonial home. Contents of report as such do not substantiate the case put forth by the prosecution.

9. On perusal of the statement of the deceased recorded in the hospital in presence of Doctor in fact does reveal that on the day of incident at around 10.45 p.m. she requested her in-laws that since she was educated she should be allowed to do some job which request was turned down by her in-laws and due to said refusal she got annoyed and in the fit of anger she consumed poison. The contents of the said document which can now be termed as dying declaration does not establish involvement of the applicant in any manner.

10. The statement of Dr. Patwardhan in whose presence above statement came to be recorded has stated in similar way as to what has been stated by the deceased in her statement.

11. Perusal of the statement of the brother, the mother of the deceased are more or less on the same lines as the contents in the FIR. In fact from the statement of the brother it only reveals that when the brother

of the deceased went to her matrimonial home to bring her to her parental home, the husband of the deceased was not in the house and when the deceased spoke to her husband on phone to accompany her brother to go to her matrimonial home it is stated that her husband informed her not to go to her matrimonial home, except this nothing can be revealed from the said statement to establish involvement of the applicant. Though the prosecution is heavily relying on the contents in the diary of 2017 which is seized along with one more diary of the year 2015, which is seized to compare the handwriting of the deceased, it is seen that in the diary of the year 2017, the notes are made by the deceased only uptill 14/8/2017 .

12. According to the case of prosecution on the date of incident i.e. 5/10/2017, the deceased had consumed poison and died under medical treatment on 7/10/2017. Considering that there are no entries made as aforesaid, this document prima facie appears to be of no use to the prosecution.

13. Having considered the facts as aforesaid and considering that the co-accused Vasudev Shelar, the father-in-law is already released on bail by this Court and even if the case of the Applicant is considered independently, she is found to be entitled for bail. Hence, the following order:

ORDER

- (i) The applicant shall be released on bail on executing P.R. bond in the sum of Rs.25,000/- with one surety in the like amount;
- (ii) Applicant shall not tamper with the investigation and shall cooperate with the same.

(P.N. DESHMUKH, J)