

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

BAIL APPLICATION NO. 2163 OF 2018

Arjun Bhagwan Chavan

..Applicant

v/s.

The State of Maharashtra .

..Respondents

Mr.Mahindra B. Deshmukh for the Applicant.

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

CORAM : ANUJA PRABHUDESSAI,J.

DATED : OCTOBER 10, 2018.

P.C.

1. This is an application for bail under Section 439 Cr.P.C. filed by the aforesaid applicant, who has been arrested in Crime No. 64 of 2018 registered with Tasgaon Police Station for offences under Section 302, 104, 119, 504, 506 r/w. 34 of the Indian Penal Code.

2. Heard Mr. Deshmukh, the learned Counsel for the applicant. He submits that there is no prima facie material to show the involvement of the applicant in commission of the said crime. He further submits that the parents of the applicant have already been released on bail and that the applicant being the only son, is also

entitled for bail.

3. Shri Agarkar, the learned APP submits that the child was in custody of the applicant. The death of the child was due to throttling. He contends that there is prima facie material to show that the applicant and his parents were suspecting the paternity of the child. He therefore claims that there is prima facie material to show the involvement of the applicant in commission of a serious crime.

4. I have perused the records and considered the submissions advanced by the learned Counsel for the respective parties. The records reveal that the co-accused-Sunita was married to the applicant on 25th November, 2016 and she conceived soon after her marriage. The applicant and his family members suspected the paternity of the child who was born on 2nd September, 2016.

5. The statement of Dinkar, father-in-law of the applicant, prima facie reveals that Sunita had told them that even while she was pregnant the applicant and his family members were harassing her alleging that the child was not of the applicant. He had told the applicant and his family members that they could get their doubts

cleared by conducting DNA test. He has stated that neither the applicant, nor his family members had visited Sunita while she was admitted in the hospital and none of them came to see the child.

6. The statements of parents of Sunita indicate that the applicant and his mother had not attended the naming ceremony of the child and that the father-in-law of Sunita had told them not to send the child home because of winter. During the four months when Sunita was at her parental house, the applicant and his mother had not visited her and had not come to see the child. Since the applicant and his family members had not come to take Sunita and the child to their house, the parents of Sunita dropped Sunita and her child at her matrimonial house.

7. The statement of this witness further reveals that Sunita had told them that the applicant and his mother were constantly questioning her as to how the child was of fair complexion. They were constantly doubting the paternity of the child. Sunita had told them that the applicant was constantly telling her to kill the child and further threatened that if she failed to do so to, he would kill her.

8. On 25th August, 2018 at 10.30 am one Hanmant had told them that the child had died. When they went to see the body, the applicant had told them that the child might have died due to pneumonia or heart ailment and had stated that they should cremate the child. The parents and other relatives of Sunita suspected that the death of the child was unnatural. Hence, they reported the to the police. On receiving the said information, the body was sent for post-mortem.

9. The post-mortem report prima facie revealed that there were following injuries on the body of the child:

- (1) Contusion measuring 3 x 1.2 cm over anterolateral aspect of neck on left side with multiple crescentic abrasions at border, obliquely placed, situated 0.8 cm below angle of mandible and 3 cm above suprasternal notch, reddish. Fresh.
- (2) Contusion measuring 5 x 2 cm over anterolateral aspect of neck on right side with multiple crescentic abrasions at angle of mandible and 2 cm above suprasternal notch, reddish, fresh.
- (3) Scratch abrasion (crescentic abrasion) over lower aspect of left cheek measuring 1 cm x 0.5 cm, obliquely placed.
- (4) Scratch abrasion (crescentic abrasion) over right cheek measuring 8 mm x 5 mm obliquely oriented, situated 2.8 cm

right lateral to angle of mandible, reddish, fresh
- neck circumference -19.5 cm

10. The doctor has opined that the said injuries were ante-mortem and that the death of the child was due to throttling. The medical report therefore prima facie reveals that the death of child Arya was homicidal.

11. The material on record prima facie reveals that the child who was less than a year old and who was in custody of his parents had met a homicidal death. The circumstances which led to the death of the child are within the exclusive knowledge of the applicant and his wife. The material on record prima facie reveals that the applicant was suspecting the paternity of the child. He had not attended to his wife Sunita during her pregnancy and at the time of her delivery. He had not attended the naming ceremony and further not visited or inquired about the well being of the child while his wife was at her parental home. The FIR also prima facie indicates that the applicant was pressuring his wife to kill the child. All these facts prima facie link the applicant to the commission of the crime. Considering the

gravity of the offence, in my considered view, this is not a fit case for grant of bail. Hence the application is dismissed.

(ANUJA PRABHUDESSAI, J.)