

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 2909 OF 2017***

Nilesh Bhau Patil

Applicant

Versus

The State of Maharashtra

Respondent

Mr.A.P.Mundargi, Senior Counsel a/w Mr. Vikram Singh Parmar a/w Mr. Prashant Patil a/w Ms. Falguni Singhvi i/b. Mr. Kedar J. Patil, for the applicant.

Mr.S.H.Yadav,APP, for the State.

CORAM : SMT. SADHANA S.JADHAV, J.

DATE : 2nd February, 2018.

P.C. :

1. Heard. This is an application under section 439 of Cr.P.C. The applicant herein is arrested on 12.12.2016 in Crime No.256 of 2016 registered at Uran Police Station, District Raigad for the offences punishable under Sections 302, 201, 498A read with Section 34 of the Indian Penal Code.

2. The applicant herein was married to Pragati on 26.5.2009. Pragati had died in her matrimonial home by hanging on 28.11.2016. The couple is blessed with one son and twins i.e. one daughter and one son. The

elder son, who is 5 years old son has been diagnosed with malignancy in his abdomen and was being treated for the same at Wadia Hospital, Mumbai initially and then at Tata Hospital.

3. On 12.12.2016, father of Pragati i.e. Gajanan Gharat lodged a report at the police station alleging therein that Pragati was being harassed and ill-treated at the hands of her husband. There was demand of dowry. That there was a demand of Rs.50,000/-. She was ill-treated. On 28.11.2016, after Pragati died, the complainant had been to the house of the deceased. They suspected foul play as the dead body was covered upto the neck. Her face was swollen. They have noticed a ligature mark. They had given a second thought to it and after discussion and deliberation had lodged a report at the police station alleging therein that Pragati had not committed suicide, but died a homicidal death and hence Crime No.256 of 2016 is registered against the applicant and his family members for the offence punishable under Sections 302, 201 read with Section 34 of the Indian Penal Code.

4. The learned Senior Counsel for the applicant has drawn attention of this Court to an independent witness i.e. Sunita Patil who happens to be a distant relative and who stays in his neighbourhood. She

had disclosed to the police that the applicant used to take his elder son to Tata Hospital once in a fortnight. That Pragati was depressed because her son was diagnosed with Malignancy. Similarly, the applicant had not received salary of preceding four months. The applicant used to do the work of welding and selling fish in order to make both ends meet. She has also disclosed that Pragati used to panic in the event her son did not attend school. She had suffered from post partum depression. After her second delivery, when she had given birth to twins, she took almost 3 months to recover. She could not manage her children. On 28.11.2016, in the morning at 7 a.m., she heard voice of the applicant asking his wife to at least look at the children and questioning her. The witness had rushed to the house and had seen that Pragati was on the lap of the applicant and they were trying to help her regain consciousness. The witness had also helped them for the same. Thereafter, the applicant, his brother and the said witness had taken Pragati to Civil Hospital and tried their level best to save her. However, in the hospital, Pragati was declared dead. Soon after the incident, the applicant had taken her to Dr. Ekta Joshi who is residing in the neighbourhood.

5. The learned APP submits that the scene of offence panchnama

was conducted on the same day and the Investigating agency could not find rope with which she had hanged and therefore, it is doubtful that she had committed suicide and it appears to be a case of homicidal death. The investigating agency after receipt of the post-mortem report had questioned the doctor as to whether this is a case of suicide or homicide and the doctor by a letter dated 12.12.2016 had replied that no definite opinion can be given as to whether it is asphyxia due to hanging or asphyxia due to compression of neck.

6. The learned Senior Counsel submits that the conduct of the applicant can be appreciated under Section 8 of the Indian Evidence Act. The incident has occurred in the day time. As on today, there is no definite opinion as to whether it is a case of suicide or homicide. Moreover, the elder son of the applicant who is barely 7 years old is being looked after by the neighbours and the complainant or the maternal family of the deceased Pragati are not looking after the child. He needs regular treatment and needs to be taken to Tata Cancer Hospital every week. There is nobody in the family who could look after the children. It is in these circumstances, that the applicant deserves to be enlarged on bail.

ORDER

- (i) The application is allowed.
- (ii) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- and one or more solvent sureties in the like amount.

The application stands disposed of.

(SMT. SADHANA S.JADHAV, J.)