

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 491 OF 2019

Chandrakant R.Pujari

...Applicant.

Vs.

State of Maharashtra

...Respondent.

Mr. Ritesh Thobde with Sagar Tambe for Applicant.

Mr. A.R.Kapadnis, APP for the Respondent/State.

Mr.Kiran Undre API from Kamati Police Station present.

CORAM : P.N. DESHMUKH, J.

DATE : 19TH MARCH, 2019

PC :

1. This application is for bail by accused involved in CR No.208/2018 registered for offence punishable under Section- 302 and 201 of Indian Penal Code by Kamati Police Station, District Solapur.

2. Learned counsel for applicant submitted that, present offence is registered on the basis of report lodged by Suhas, son of deceased against his father, as deceased Sheela is his mother. Report

came to be lodged on the basis of information supplied to complainant by his sisters Supriya and Shubhangi one day after the incident however, it is submitted that statements of Supriya and Shubhangi are silent of their giving any information to complainant as stated by him in his report. It is therefore contended that, thus there is no evidence against the applicant at all and has thus sought bail.

3. Learned APP. by referring injury certificate submitted that, injuries sustained by deceased cannot be possible by falling from bullock cart and by referring statement of Doctor of private hospital and discharge card contended that, applicant against the medical advise got deceased discharged from Yashodhan hospital, due to which she succumbed to injuries and has therefore, stated that, application is liable to be dismissed.

4. Learned APP. on instructions however submitted that, no query is made with any Medical officer from Govt. Hospital if deceased was initially admitted in private hospital nor of injuries, sustained by her it possible due to fall from bullock cart..

4. In the background of facts as aforesaid, perusal of report by

Suhas, would reveal that, at the time of incident, he was not present in the house on the day of incident and on 5.10.2018 claims to have received information from his sisters that, on the night of 2.10.2018 at 10.30 p.m. there was quarrel between applicant and deceased when applicant committed assault on her abdomen by fist and kick blows and at around 11.00 p.m. took deceased in their field on the pretext of watering sugarcane crop and brought deceased in the morning in the bullock cart stating to have sustained injuries due to fall from bullock cart. On the basis of report as aforesaid, offence is registered and applicant is arrested, contents of report are specific with regards to source of information to complainant who on the date of incident was admittedly not in the house and according to him he received information from his sisters namely Supriya and Shubangi. Perusal of these statements however do not establish if they have informed complainant any fact. In that view of the matter, case of prosecution of assault by applicant by fist and kick blows in abdomen of deceased prima facie does not appears to be convincing.

5. Though prosecution has opposed application on the ground

that, applicant against medical advise sought discharge of deceased.

Admittedly, applicant initially referred his wife to Government hospital where she was provided treatment as can be seen from injury report. According to which deceased was brought to said hospital in the morning of 3.10.2018 at 4.00 a.m. however for want of availability of ventilator at Civil hospital, Solapur who informed by the Medical Officer, applicant took his wife to private hospital. In that view of the matter, there is no substance in the submissions of learned APP. that applicant with some ill motive got her discharged against medical advise as applicant if at all never wanted to provide any treatment to deceased then would have certainly not took her to Government hospital initially.

6. Admittedly, no post mortem is performed since deceased last rites were already performed as report is lodged after performing last rites. Similarly no query is made to Doctor with regards to injury sustained by deceased if possible by fall by bullock cart. Learned APP. on instructions from Investigating officer states, that there are no statements of any witness to have seen applicant with deceased in

their field in the night intervening from 2nd October and 3rd October of 2018. Having considered the nature of evidence available against applicant and as charge sheet is filed, application is allowed on the following terms.

ORDER

- a) Applicant shall be released on bail in CR No.208/2018 registered for offences punishable under Section- 302 and 201 of Indian Penal Code by Kamati Police Station, District Solapur on his executing PR bond in the sum of Rs.50,000/- with one surety in the like amount.
- b) While on bail, the applicant shall mark his presence with Kamati Police Station, District Solapur on 15th day of alternate month between 11.00 a.m. to 1.00 noon pending trial and shall not fail to attend trial court on the date of hearing.
- c) The Trial Judge shall not get influenced with the observations as above and shall independently evaluate the evidence at the time of trial.

(P.N. DESHMUKH, J.)