

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.829 OF 2019

Atul Babruvan Kamble

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Santosh Bhamre and Mr.Swapnil Patil, Advocate for the Applicant.

Mr. Y. M. Nakhwa, Advocate for the Respondent-State

CORAM : SANDEEP K. SHINDE, J.

DATE : 4TH NOVEMBER, 2019

P. C. :

1. Heard learned counsel for the applicant and learned APP for the State.

2. It is an application under Section 439 of the Code of Criminal Procedure, 1973. The applicant was arrested on

27.05.2019 in Crime No. I-132/2018 registered in APMC Police Station, Turbhe, Navi Mumbai, registered under Sections 302, 201, 397, 120B read with 34 of the Indian Penal Code.

3. On 19.05.2018 accidental death came to be registered on the information given by Smt. Anita Chandrakant Chavan, a neighbour of deceased. Deceased name is Smt. Suman Baban Hande. The doctor opined the cause of death, was Asphyxial death due to smothering. On 23.05.2018 son of deceased reported to the police that the valuables (ornaments) on the person of the deceased were not found. After recording the statement, the subject crime came to be registered against the unknown persons. All other accused were arrested on 27.05.2018 and accused No.1 was arrested on 25.05.2018. I have perused the charge-sheet.

4. The only material which is pointed out as against the present applicant by the learned APP is discovery under Section 27 of the Evidence Act. It appears on 29.05.2018 at the instance of

voluntary statement made by the applicant the empty jewellery boxes, the passbook of deceased, her pancard and Xerox copies of Aadhar Card were recovered.

5. Except this material nothing has been pointed out to connect the accused to the alleged crime. It is reported that there are no antecedents against this accused.

6. Taking into consideration the facts of the case and the material that has been pointed out by the prosecution, I am inclined to grant this application on the following conditions :

(i) The applicant is directed to be released on executing P. R. Bond in the sum of Rs. 50,000/- with the one or more sureties in the like amount ;

(ii) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(iii) The applicant shall inform his latest place of residence and mobile contact number and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(iv) The applicant to cooperate with the conduct of the trial and attend all the dates before the trial Court, unless exempted ;

(v) The applicant shall file an undertaking with regard to clauses (iii) to (v) in the trial Court, within two weeks of his release;

(vi) If there are two consecutive defaults either in attending the concerned Police Station or breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

(vii) The observations in this order being *prima facie* in nature, shall not bind the Learned Trial Court.

(SANDEEP K. SHINDE, J.)