

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

CRIMINAL BAIL APPLICATION NO. 1972 OF 2019

Smt. Parvati Vitthal Mane

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Ghanshyam Upadhyay a/w. Ratnesh Mishra a/w. Mr. Kunal Jha i/b.
Law Juris, for the Applicant.

Mr. S.R. Agarkar, A.P.P. for the Respondent-State.

Mr. Anand T. Mudgiyar, P.I. Tulinj Police Station present.

CORAM : SANDEEP K. SHINDE, J.
DATE : 07th NOVEMBER 2019.

P.C.

1 Heard learned counsel for the applicant and learned A.P.P. for the respondent – State.

2 Applicant and other six are the accused in Crime No. 278 of the 2019 registered with Tulinj Police Station, Nallasopara (East), Dist. Palghar for the offences punishable under Sections 302, 404, 201 and 120 (B) read with Section 34 of the Indian Penal Code, 1860.

3 Applicant is a lady aged 45 years. She was arrested on 05th March 2019. There are seven accused in the subject crime. Accused Nos.6 and 7 are juvenile-in-conflict with law. Accused Nos.6 and 7 are the daughters of one Sushil Mishra (Developer and Contractor). It is alleged

that on 28th February 2019, Yogita M. Deore (deceased) suffered death at Sai Sidhant Palace at Nallasopara. Her cause of death is asphyxia due to strangulation. It is alleged the accused in the crime caused disappearance of the evidence in as much as the dead-body of the Yogita was found in the open space.

4 It is the prosecution case that the deceased - Yogita's relationship with Mr. Mishra, was not approved or disliked by his daughters. It is alleged that daughters of Mishra, accused Nos.6 and 7 (juvenile in conflict with law) hatched conspiracy with the applicant and with their boyfriends by name Shailesh and Kartik to eliminate deceased – Yogita. It is alleged that Yogita was offered drink laced with intoxicating pills. After losing consciousness, Yogita was strangled in a flat at Sai Sidhant Palace a Housing Society and efforts were made to disappear her dead body. It is the prosecution case that the applicant, too was working with Sushil Mishra.

5 Learned counsel for the applicant submits that there is no evidence on record at all to connect the accused with the alleged offence. He submits that the learned Trial Judge declined to release the applicant on the bail only on the ground that the juvenile in conflict with law (accused Nos.6 and 7) disclosed the name of the applicant to the police. It is

therefore, submitted except statement of co-accused, there is no evidence at all to show her conflicting in alleged crime. Learned counsel further submits that before the learned Sessions Judge, prosecution projected that the juvenile in conflict with law would be witness on tender of pardon. It is submitted that the reasons recorded by the learned Trial Judge, for refusing the bail, are not sustainable.

6 I have perused the charge-sheet. There is one statement dated 06th March 2019 of security guard of the Sai Sidhant Palace Housing Society. He stated in night intervening 28th February 2019 and 01st March 2019, one auto rickshaw came in the Society's compound wherein one lady aged 40-45 years found sitting. It appears prosecution is claiming this lady was none - other than applicant. However, admittedly, the Test Identification Parade has not been held. It is, therefore, submitted that only on the suspicion applicant has been implicated.

7 Learned A.P.P. in reply could not point out material to connect the applicant with the present crime. Attempt was made to rely on the Call Details Report (CDR) of the applicant. However, such details do not support and / or connect the applicant with the subject crime.

8 It is for the reasons stated, application is allowed and the

applicant is directed to release on the bail on the following conditions.

ORDER

- (i) The applicant shall be released on bail, on executing P.R. Bond in the sum of Rs.50,000/- with one or more local sureties in the like amount;
- (ii) The applicant shall attend the concerned Police Station twice a the month on each Tuesday and Saturday in a week commencing from the 18th November 2019 in between 10:00 a.m. to 12:00 noon for the period of six months;
- (iii) The applicant shall inform particulars of his 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 not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(vi) If there are two consecutive defaults either in attending the 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 applicant shall not leave the district of Thane and Palghar without first informing to the concerned Police Station.

9 The application is allowed in the aforesaid terms and is accordingly disposed of.

10 It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

11 All concerned to act on the authenticated copy of this order.

(SANDEEP K. SHINDE, J.)