

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

**CRIMINAL BAIL APPLICATION NO. 2538 OF 2019**

Ramesh Sidram Suryawanshi .... Applicant  
Versus  
The State of Maharashtra .... Respondent

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Mr. Kuldeep S. Patil, Advocate for the Applicant.  
Mr. S. H. Yadav, APP for the State/Respondent.  
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**CORAM :SARANG V. KOTWAL, J.**  
**DATE :15<sup>th</sup> OCTOBER, 2019**

**P.C. :**

1. The Applicant is seeking his release on bail in connection with C.R.No. 28 of 2018 registered with M.I.D.C. Kupwad Police Station, Dist. Sangli, under sections 302, 364, 342, 201, 324, 504 and 506 r/w. 34 of the Indian Penal Code.
2. The FIR is lodged on 23/02/2018 by Police Head Constable Minakshi Sankpal. She has stated in her FIR that she was investigating the missing complaint of one Kavita Suryawanshi who was the wife of the present applicant. The complaint was lodged by the applicant. His wife had left their home in the night

between 18/02/2018 and 19/02/2018. On 23/02/2018 Kavita came to the police station with her brother Kiran Bhosale. She informed that she was fed up with the harassment caused by the applicant. She had eloped with the deceased Sagar Mali on 19/02/2018 at about 5.00a.m. Then they were staying together in a rented room. On 22/02/2018 at around 11.00p.m. the applicant, her brother Arun Bhosale and their friends Vijay and Vishal came there. The applicant and others assaulted Kavita and Sagar and thereafter they were taken to Arun's house. The deceased succumbed to his injuries and thereafter Kavita had come to the police station to tell her narration. Accordingly, the FIR was lodged. The investigation was carried out and the applicant was arrested on 24/02/2018 and since then he is in custody. The investigation is over and the charge-sheet is already filed.

3. The prosecution case is based on the statement of the injured eye witness Kavita who is wife of the applicant. She has stated in her statement that there used to be constant quarrels between her and the applicant and the applicant used to assault her. Kavita was knowing deceased Sagar since their childhood.

Sagar used to visit their house. The applicant was not happy with the situation. He used to pickup quarrels with Kavita on that count. Kavita had even helped Sagar financially. On 18/02/2018 in the night again there was quarrel between Kavita and the applicant. The applicant had threatened her. In early hours at 5.30a.m. on 19/02/2018 Kavita eloped with Sagar. They went to Ichalkaranji. They went to seek help from one Santosh Shelke. They obtained a rented room in Shirdhon and they stayed there. On 22/02/2018 at around 11.00a.m. the applicant and aforementioned persons entered their house. The applicant dragged Kavita towards a rickshaw. Kavita and Sagar were forcibly kept in a rickshaw. The applicant gave kick blows to Sagar. Arun also joined him. The applicant slapped Kavita. Somebody removed sugarcane lying in a tractor nearby. Two wooden sticks were also taken out. At some distance, Sagar and Kavita were taken out of rickshaw and Sagar was assaulted. When applicant got tired, his friend Vijay started assaulting Sagar. Vishal also assaulted Sagar. Thereafter Vijay, Vishal and Arun kept Sagar in rickshaw and brought them to her mother's place. Sagar was in the next room.

After some time, the applicant informed them that Sagar had died. The Postmortem notes show that the deceased had suffered 13 injuries, most of them were in the nature of abrasions. There was one serious injury on the head which had caused Subdural Haemorrhage all over brain. The cause of death was mentioned as, “Death due to head injury”. Thus, one blow proved to be fatal. Kavita herself had suffered injuries in the nature of multiple abrasions on her face which were caused because of slaps given by the applicant. This, in short, is the prosecution case, as alleged.

4. Heard Shri. Kuldeep Patil, learned counsel for the applicant and Mr. S. H. Yadav, learned APP for the State.

5. Shri. Patil, learned counsel for the applicant submitted that the applicant had no intention to commit murder of the deceased. He simply wanted to take his wife back. He got enraged after seeing the deceased and his wife together in a village and started beating him. Therefore, he has not committed the offence of murder with the requisite intention and knowledge. He submitted that the applicant is in custody since 24/02/2018. The investigation is over and no purpose will be served by keeping him

in custody. Shri. Patil submitted that, co-accused Arun and Vishal are already granted bail. No specific role of assault on head is attributed to the applicant.

6. Learned APP opposed this application and submitted that, the manner in which the deceased was assaulted shows that the applicant had intentionally assaulted the deceased.

7. I have considered these submissions. As rightly pointed out by Shri. Patil, the applicant had gone to the place where Kavita was staying with the deceased, to bring her back. He had taken Kavita's brother Arun with him. He had not carried any weapon, which shows that, initial intention was to take her back. However, looking the deceased and his wife together he got enraged and assaulted the deceased with sticks and sugarcane which were lying in the tractor which was parked nearby. Thus, there is considerable force in the submission of Shri. Patil that he had not gone there with an intention to commit murder of the deceased. There is no specific role attributed to the applicant by Kavita of assaulting the deceased, particularly on the head. The blow on the head proved to be fatal. Rest of the injuries were not on vital parts

and did not cause any serious damages. Co-accused Arun and Vishal are already granted bail. Vishal was also attributed role of assaulting the deceased with a stick and he is granted bail. Therefore, taking into account all these factors, including ground of parity which is available to the applicant, so far as, actual assault is concerned, the applicant has made out a case for his release on bail. Of course, trial court will have to consider all these aspects independently after evidence is led before it. At this stage, I am inclined to grant bail to the applicant.

8. Hence, the following order :

**ORDER**

- (i) In connection with C.R. No. 28 of 2018 registered with M.I.D.C. Kupwad Police Station, Dist. Sangli, the applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
- (ii) Application stands disposed of accordingly.

**(SARANG V. KOTWAL, J.)**