

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

CRIMINAL BAIL APPLICATION NO. 941 OF 2020

Rekha Arun Walvekar .. Applicant
V/s.

The State of Maharashtra ..Respondent

Mr. Satyavrat Joshi i/b Sunil Kamble for the Applicant.

Mr. H.J. Dedhia, APP for the Respondent-State.

CORAM : C.V. BHADANG, J.

DATE : 14th DECEMBER, 2020

P.C.

1. The applicant (accused No.5) along with others, is facing prosecution for the offence punishable under Section 302, 201 read with Section 34 of I.P.C. in Crime No. 251 of 2019 registered with Vadgaon police station, Kolhapur for having intentionally caused the death of her son, Aniket Walvekar.

2. The dead body of Aniket was found in a well on 08.05.2019. The well is said to be situated at a distance about 7 to 8 k.m. from the house, where the deceased was residing along with his family members including his parents. The case of the prosecution is that

the deceased was in the habit of taking loans from private money lenders, who used to repeatedly come to the house of the deceased demanding the said loan resulting into annoyance to the family members. As a result of which, the accused out of their common intention had administered a poison “themate” to the deceased on 04.05.2019 and the dead body was disposed of in the well with the help of accused No.3. It may be mentioned that the only allegation against accused No.3 is of having helped in causing disappearance of the evidence under Section 201 of IPC and he has been granted bail by the learned Sessions Judge. The accused No.6, who is sister of the deceased has also been granted bail, being a juvenile in conflict with law (JCL).

3. I have heard the learned counsel for the parties and perused record.

4. Prima facie it appears that, in the postmortem report, there are no external injuries found on the deceased and cause of death was reserved as viscera was sent for report of chemical analiser. The report of the chemical analiser does not indicate any poison in viscera.

5. The learned counsel for the applicant pointed out that after this a new story was developed that the deceased was strangled and died of throttling. He submits that the postmortem report also does not indicate that the deceased had any injury to the thorax to support the theory of strangulation/ throttling.

6. I have also gone through the statement of Sou.Ankita Walvekar, who is the widow of the deceased and Manoj Patil, who is the employer of the deceased. The deceased was said to be working as a driver on a dumper belonging to Manoj Patil. Prima facie it appears all that Manoj Patil says is that on 04.05.2019 at about 7.45 p.m., the deceased made a call to him informing that “family members were making him drink themate”. As indicated earlier, prima facie C.A. report does not show the presence of any poison in the viscera. In my considered view, apart from the aforesaid circumstances, the applicant would also be entitled to benefit of the first proviso to Sub-Section 1 of Section 437 of Cr.PC. The applicant is in custody since 12.05.2019. The investigation is complete and the chargesheet is filed.

7. In that view of the matter, the following order is passed.

ORDER

i) The Applicant be released on bail on executing a PR Bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount.

ii) The Applicant shall undertake to remain present before the learned Sessions Judge, during the course of trial.

iii) The Applicant shall not tamper with the prosecution evidence/witnesses and shall not leave the jurisdiction of the learned Sessions Judge, without permission.

iv) Bail bonds to be furnished before the learned Sessions Judge.

v) Criminal bail application is disposed of in the aforesaid terms.

C.V. BHADANG, J.