

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

CRIMINAL BAIL APPLICATION NO. 2706 OF 2019

Sandip Madhukar Lokhande ...Applicant

V/s

The State of Maharashtra ...Respondent

Mr. A. P. Mundargi, Sr. Adv. i/b. Pravada Raut for the applicant.

Mr. S. H. Yadav, APP for the State/respondent.

Bajrang Dadu Lad, HC, Juna Rajwada Police Station.

CORAM : PRAKASH D. NAIK, J.

DATE : 23rd JANUARY, 2020

PC :

1. The applicant is arrested on 13th March, 2019 in connection with C.R. No. 71 of 2019, registered with Juna Rajwada Police Station, Kolhapur, for offence punishable under Section 302 of Indian Penal Code, 1860 ('IPC' for short).

2. The applicant is husband of deceased. The incident had occurred on 9th March, 2019. The ADR was recorded under Section 174 of Code Criminal Procedure, 1973. The First Information Report ('FIR' for short) was registered at the instance of Police Sub Inspector Tejaswini Patil on

13th March, 2019. It is alleged that, the applicant informed the deceased that his mother died due to cancer at about 4.00 a.m. on 9th March, 2019. Deceased was shocked. Deceased went to the second floor to bring 'Angara'. While getting it she fell down and sustained head injuries resulting into death on the spot. Inquest Panchnama was recorded. It is alleged that, there was audio recording in the CCTV having facility of audio in the adjacent bungalow about the women shouting in the early morning at about 4.45 a.m.

3. During the course of investigation, statement of various witnesses were recorded. On completing investigation, charge-sheet was filed.

4. Learned Senior advocate Mr. Mundargi submitted that, the case is based on circumstantial evidence. There is no eye witness to the incident. However, the circumstances relied upon by the prosecution are weak. It is not possible to establish complicity of the applicant in the committing murder of deceased. It is submitted that, the deceased was married with the applicant 18 years ago. Some matrimonial proceeding were initiated in the year 2005. Deceased was found dead on the ground floor. There is no cogent evidence

to show that the applicant had either assaulted or pushed his wife, which resulted in her death. Statement of the applicant's father and sister of deceased were recorded. It cannot be presumed that the voice recorded in the audio clip is of the deceased. Prosecution proceeded on the basis that, the applicant assaulted the victim, then pushed her. Prosecution is relying on the recovery of piece of tiles at the instance of applicant. However, piece of tiles were were allegedly found lying on ground floor. Learned Senior counsel drew my attention to the statement of his father and submitted that even accepting the said statement it cannot be inferred that the applicant is responsible for committing murder of deceased. It is submitted that the applicant is in custody from date of arrest. Charge-sheet is filed.

5. Learned APP submitted that Postmortem note indicates injuries sustained by the victim. There is reason to believe that victim was assaulted by the applicant and then pushed her from upper floor of the house. He relied upon the injuries found on the neck of deceased. It is submitted that the father of the applicant had stated that his wife had died in the early morning. Victim was not found disturbed

with the incident. The applicant followed her and thereafter it was noticed that she fell down. Learned APP submits that, it is strong circumstance to show involvement of the applicant in crime. He also relied upon the statement of son of the applicant, as one of the circumstance. He drew my attention to the statement of Madhukar Lokhande and submitted that the relationship between applicant and deceased were not cordial. Voice recording was recovered from the adjacent bungalow about voice of women which can be correlated with this incident.

6. Initially, the information was provided by the father of the applicant to the police. During ADR enquiry statement was recorded on 9th March, 2019. The said statement refers to happening on the day of incident. He has stated that victim went to bring Angara, accused left the room and then he heard sound of fall and it was noted that the deceased had fallen down. Subsequently, the statement of complainant was recorded. FIR was recorded including version of the witnesses. The statement of Prashant Yadav was recorded on 10th March, 2019. He is the co-brother of the applicant. In the first statement, he has stated that he learnt that deceased has committed suicide. He also

mentioned that there is dispute between the applicant and his wife and as the result of that there is likelihood of that the incident must have occurred. His supplementary statement was recorded thereafter on 23rd March, 2019 in which he has referred to the previous history. He has referred to dispute between applicant and his wife. It is pertinent to note that the matrimonial proceedings were initiated in year 2005. Notice was issued at the instance of the applicant to the deceased on account of matrimonial differences in year 2005. The statement of the son of the applicant mentions that on 8th March, 2019, the deceased had slept in his room. In the early morning, his father and the grand father were crying. Grand mother passed away. He also noticed that his mother was lying on the ground floor in an injured condition. His father (applicant) and grand-father told him that, she lost her balance and fell down. Statement of the father of the applicant mentioned that victim was followed by the applicant in house. Taking all the circumstances, it cannot be said that there is prima facie evidence to indicate that the applicant had killed deceased. Investigation is completed and charge-sheet is filed. Considering all these aspects, bail can be granted to the applicant.

ORDER

- (i) Bail Application No. 2706 of 2019, is allowed;
- (ii) The applicant is directed to be released on bail in connection with C.R. No. 71 of 2019, registered with Juna Rajwada Police Station, Kolhapur, on his furnishing P.R. Bond in the sum of Rs.25,000/-, with one or more sureties in the like amount
- (iii) The applicant shall report concerned Police Station, once in a month on first Saturday of every month between 11.00 to 1.00 p.m. till further order;
- (iv) Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)