

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 920 OF 2021

Anita Pramod Korde

Applicant

Versus

The State of Maharashtra

Respondent

Mr. H.D.Deshmukh, Advocate holding for Mr. N.V Gaware, for the applicant.

Mr. V.M. Kagne, APP for respondent/State.

WITH

BAIL APPLICATION NO. 996 OF 2021

Yogesh Balasaheb Bavadkar

Applicant

Versus

The State of Maharashtra

Respondent

Mr. H.D Deshmukh, Advocate holding for Mr. N.V. Gaware, Advocate for the applicant.

Mr. V.M. Kagne, APP for respondent/State.

Mr. N.B. Patekar, Advocate for the informant.

CORAM : M.G. SEWLIKAR, J.

DATE : 12th October, 2021.

PER COURT :

1. Heard.

2. Prosecution case is that deceased was the husband of accused No. 2 Anita. He was a liquor addict. On the day of the incident, he had come to home drunk and he slept. On the next day i.e. on 2nd March, 2020, when applicant Anita woke up she found that the deceased was lying on the floor motionless. She tried to wake him up. But there was no movement. She, therefore, called applicant Yogesh. Both of them shifted the deceased to the hospital. On arrival, the deceased was declared dead. Thereafter, AD was registered. In the AD, informant, who is the brother of the deceased, gave the statement that he did not lodge First Information Report as he was told that the death had occurred due to cerebral haemorrhage. After Post Mortem, it was revealed that the deceased had an injury on head. Informant, therefore, lodged the report alleging that both the applicants had illicit relations. He had noticed that applicant Anita used to come home on the motorcycle of applicant Yogesh. He had communicated this conduct of applicant Anita to the deceased. It is further alleged in the First Information Report that the deceased used to say to the informant that at the instance of the deceased only applicant Yogesh used to drop applicant Anita at home. It is further alleged in the First Information Report that on the day of the incident, he was informed at 6.30 am

that the deceased was admitted in the hospital. The deceased died during treatment. Informant was under impression that applicant Anita would lodge complaint. But she did not do so. Therefore, he suspects that both the applicants committed murder of the deceased.

3. Shri Deshmukh, learned counsel for the applicants, submits that in the AD, statement of Medical Officer was recorded in which he stated that the deceased died because of cerebral haemorrhage. He submits that there is no evidence to show that prior to the incident, anyone had noticed illicit relations between both the applicants. He further submits that viscera report shows that the deceased had consumed alcohol on the day of the incident. He further submits that applicant Yogesh may be released on any conditions including staying away from the village.

4. Learned APP submits that Post Mortem report shows that the deceased had injury on head. Final cause of death is shown to be cerebral haemorrhage due to head injury. He further submits that '*fukni*' is recovered from applicant Yogesh. He further submits that the conduct of applicant Anita shows that she and applicant Yogesh have illicit relations. She did not inform about the critical

condition of the deceased to the informant. He further submits that on 16th January, 2021, both the applicants had booked a lodge. He submits that medical evidence shows that the head injury is not possible because of fall.

5. So far as illicit relations are concerned, First Information Report shows that the informant had complained to the deceased about conduct of applicant Anita of travelling on the motorcycle of applicant Yogesh as a pillion rider. Answer of the deceased was that applicant Yogesh was the friend of the deceased and at his instance, applicant Yogesh drops applicant Anita. So the contents of First Information Report show that the deceased himself had no suspicion that they had illicit relations.

6. Post Mortem report shows injury on head. It does not show that it had caused fracture. So it was a simple injury. From the nature of injury, it cannot be said that applicant Anita had an intention to commit murder of the deceased. It is true that '*fukni*' is recovered from applicant Yogesh. However, considering evidence on record, it cannot be said that applicant Yogesh had an intention to cause death of the deceased as deceased never suspected that they

had illicit relations. It is pertinent to note that First Information Report itself states that the deceased never raised any objection about the relations between applicant Anita and applicant Yogesh.

7. Shri Patekar, learned counsel for the informant, states that applicant Yogesh is a politically influential person. He further submits that at this stage he (applicant Yogesh) may pressurise the informant and, therefore, stringent conditions be imposed on him if this Court is inclined to release him on bail.

8. Nothing has been placed on record to show that applicant Yogesh is politically influenced person. Having regard to the evidence collected by the prosecution, I am inclined to release both the applicants on bail. Hence the following order:-

ORDER

- i) Both the applications are allowed.
- ii) Applicant Anita Pramod Korde and applicant Yogesh Balasaheb Bavadkar be released on PR Bond of Rs. 40,000/- (Rs. Forty Thousand) each with one solvent surety each in the like amount in connection with Crime No. 0065/2021 registered

with Karjat Police Station, Karjat, Dist. Ahmednagar, for the offences punishable under Sections 302, 201 read with Section 34 of the Indian Penal Code, on condition that applicant Yogesh Balasaheb Bavadkar shall not enter village Mirajgaon, Tq. Karjat, Dist. Ahmednagar, till the conclusion of the trial.

iii) Both the applications stand disposed of.

iv) It is clarified that the observations made in the above order are restricted to the decision of this application only and the trial Court shall not get influenced by the same and can come to its independent conclusion during trial.

(M. G. SEWLIKAR)
Judge

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2372 OF 2021 IN
BAIL APPLICATION NO. 996 OF 2021

Shrikant Balasaheb Korde

Applicant

Versus

Yogesh Balasaheb Bavadkar & another

Respondents

Mr. N.B. Patekar, Advocate for the applicant.

Mr. V.M. Kagne, APP for respondent/State.

Mr. H.D. Deshmukh, Advocate holding for Mr. N.V Gaware, Advocate
for respondent No. 1.

CORAM : M.G. SEWLIKAR, J.

DATE : 12th October, 2021.

PER COURT :

Application is allowed and stands disposed of.

(M. G. SEWLIKAR)
Judge

dyb