

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1515 OF 2020

Sachin s/o Abhimanyu Beske,
Age 29 years, Occu. Agri.,
R/o Raiwadi, Taluka and
District Latur

.. Applicant

Versus

The State of Maharashtra,
Through the Police Officer,
MIDC Police Station,
Latur, Taluka and District Latur

.. Respondent

Mr P.P. More, Advocate for applicant
Mr A.M. Phule, A.P.P. for respondent/State

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 26th NOVEMBER, 2021

PER COURT :

1. It is an application for bail moved by the applicant by taking aid of Section 439 of Code of Criminal Procedure after filing of charge-sheet.
2. One Mr Balbhim Mahadeo Kamble (father of deceased) lodged F.I.R. with M.I.D.C. Police Station, Latur on 27.4.2020 about murder of his daughter. According to the allegations made in the F.I.R., Manisha was daughter of Balbhim. Marriage of Manisha was solemnised on 1.1.2019 with one Sachin Beske, resident of Raiwadi. The husband and in-laws cohabited with her properly for initial period of four months. After period of four months of co-habitation, his daughter Manisha was subjected to harassment and cruelty at the hands of her husband and her in-laws so as to bring Rs.2 lakhs to purchase a jeep. Manisha informed such harassment and cruelty caused by her husband and in-laws to her father

very frequently, however, first informant and his wife convinced her daughter Manisha that they are unable to meet the demand due to their poor financial condition. They met with husband and in-laws of their daughter and requested to co-habit with their daughter in a good manner, as they were unable to satisfy their demand of money.

3. It is further alleged in the F.I.R. that his daughter Manisha was cohabiting in spite of harassment and cruelty caused by her husband and in-laws. Just two to three days before the incident, Manisha had called her father on mobile and disclosed that her husband and in-laws are insisting to satisfy the demand of Rs.2 lakhs to purchase a jeep otherwise they would kill her. They are extending severe beating to her to satisfy demand of money. She was suspecting that they would kill her if the demand is not satisfied. The first informant informed her that after the lock-down is over, he would take her back with him. On 26.4.2020, the first informant Balbhim Kamble (father of the deceased) was informed on mobile phone that his daughter Manisha is dead and lying in the field. Accordingly, first informant rushed to the place. After conducting post mortem examination and after conducting the panchnama, he came to know in view of opinion given by the doctor who conducted the post mortem that his daughter Manisha has been killed by way of strangulation. It is alleged in the F.I.R. that applicant/husband of deceased had committed murder of his daughter Manisha on 26.4.2020 at 12.00 noon in the field by strangulation.

4. It is alleged in the F.I.R. that applicant and his family members had killed his daughter Manisha. His daughter Manisha was subjected to

harassment and cruelty at the hands of her husband and in-laws to meet the unlawful demand of Rs.2 lakhs to purchase a jeep. They have committed murder since he could not satisfy the demand of money.

5. On the basis of F.I.R. lodged by Balbhim Kamble (father of the deceased), Crime No.244 of 2020 came to be registered at M.I.D.C. Police Station, Latur for the offence punishable under Sections 302, 498-A read with Section 34 of the Indian Penal Code.

6. The applicant came to be arrested in connection with abovesaid crime on 27.4.2020 at 19.49 hours. The investigation is completed and charge-sheet is filed before the concerned Court.

7. Heard Mr More, learned Counsel for the applicant and Mr Phule, learned A.P.P. for respondent/State.

8. According to Mr More, learned Counsel for the applicant, if the allegations levelled in the F.I.R. are taken into consideration, it is not a case of murder. Hardly it can be said to be a case of suicidal death in view of injuries mentioned in the post mortem report, more particularly in Column No. 17. He submitted that the doctor who conducted post mortem has given opinion about the death by strangulation, which is not supported by the findings given in Column No. 17 of the post mortem report. Mr More invited my attention to Column No. 17 of the post mortem report and pointed out that if the injuries shown in Column no.17 are taken into consideration, it is difficult to accept that it is a case of strangulation. It is a case of suicidal death by Manisha. One step ahead, at the most it can be said that it is a case of dowry death punishable under Section 304-B of the Indian Penal Code. It is not a case of murder as alleged by the

prosecution. He further submitted that the father and other relatives of deceased have falsely implicated the applicant in the case of murder. He argued that the applicant has taken the deceased to the hospital for treatment. Had there been intention of the applicant to commit murder of his wife, he would not have taken her to the hospital for treatment. He would have fled away from the spot of incident. Mr More, learned Counsel for the applicant invites my attention to the statements of witnesses, more particularly statements of Narayan Beske and Balaji Urgunde. He submitted that if the statements of abovesaid witnesses are perused carefully, it would be clear that it is a case of suicidal death and not a case of murder.

9. Mr More, learned Counsel for the applicant submitted that now the investigation of the case is over and charge-sheet is filed. Co-accused have been released on bail. There is no need to keep the applicant behind the bars. The trial may take its own time. The applicant has no criminal antecedents and no criminal background. The applicant needs to be enlarged on bail in view of Section 439 of Cr.P.C.

10. Per contra, Mr Phule, learned A.P.P. strongly opposed to grant the bail mainly on the ground that the daughter of the first informant Manisha met with an unnatural death within one and half years from the date of marriage. He submitted that this fact needs to be considered in the light of allegations made in the F.I.R. He also invited my attention to the contents of the F.I.R. and pointed out that deceased Manisha was subjected to harassment and cruelty at the hands of her husband and in-laws to meet the unlawful demand of Rs.2 lakhs to purchase a jeep. She

was subjected to severe beating just before 2/3 days of the incident. She had also disclosed such harassment and cruelty to her father by making call on mobile and informed that there may be danger to her life, if the demand is not satisfied and thereafter, this incident had taken place on 26.4.2020. He invited my attention to the copy of post mortem report, more particularly Column No.17 and opinion given by the doctor about cause of death. He submitted that it is a clear case of strangulation as per the opinion given in Column No.17 of the post mortem report. There is prima facie case against the applicant.

11. Mr Phule, learned A.P.P. further invited my attention to the statements of two witnesses which are also referred by Mr More, learned Counsel for the applicant and pointed out that just before unfortunate death of Manisha, she was in the company of her husband in between 11.00 a.m. to 2.00 p.m. as appearing from the statements of witnesses. This important circumstance needs to be considered coupled with other aspects. He submitted that having regard to the serious nature of offence of murder registered against the applicant/husband of the deceased. it is not a fit case to grant bail even if charge-sheet is filed,

12. Having regard to the submissions of Mr More, learned Counsel for the applicant and Mr Phule, learned A.P.P. for respondent/State, I have gone through the F.I.R., copy of the post mortem report and statements of concerned witnesses referred by both the sides.

13. It is evident from the allegations levelled in the F.I.R. that daughter of the first informant Manisha was given in marriage to the applicant on 1.1.2019. She met with an unnatural death within one and

half years from the date of marriage. There are allegations that Manisha was subjected to harassment and cruelty at the hands of her husband and in-laws to meet the unnatural demand of Rs.2 lakhs to purchase a jeep. Just before two days of the alleged incident, Manisha had informed to her father on phone about severe beating at the hands of her husband and in-laws to meet the demand of money, otherwise there is danger to her life. After two days of such communication between the daughter and her father, Manisha met with an unnatural death on 26.4.2020 in her field. The first informant seems to have lodged the F.I.R. after conducting the post mortem examination and after the opinion given by the doctor about a case of strangulation. The opinion given by the doctor who conducted the post mortem reads thus :

" Asphyxia due to ligature strangulation. Viscera preserved for chemical analysis other than viscera preserved for forensic science laboratory investigations."

14. I have also perused the injuries shown in Column No.17 of the post mortem report. Prima facie those injuries are supporting to the opinion given by the doctor who has conducted the post mortem. It would be an exercise at the time of trial to attack those findings in view of dispute about the findings and the opinion given by the doctor, who conducted the post mortem. The trial Court would take into consideration that aspect after recording of evidence of doctor at the time of conclusion of trial. At this stage, it would not be just and proper to consider that aspect. Prima facie, the opinion about cause of death given by the concerned doctor, it is a case of strangulation and prima facie supported by findings given in

Column No.17. There are two witnesses who had seen the deceased in the company of her husband/applicant just before death in a span of two-three hours.

15. Even though there are no criminal antecedents against the applicant and no criminal background, not sufficient to consider his request to grant bail. The applicant is allegedly involved in an offence of committing murder of his wife within one and half years from the date of marriage. The deceased was subjected to harassment and cruelty at the hands of her husband and in-laws to meet the unlawful demand of money. The applicant is a prime accused in the crime. The offence alleged against the applicant is serious. Under these circumstances, I am not convinced to grant bail to the applicant even if investigation is over and charge-sheet is filed.

ORDER

The Bail Application moved by the applicant in connection with Crime No.244/2020, registered with M.I.D.C. Police Station, Latur for the offence punishable under Sections 302, 498-A read with Section 34 of the Indian Penal Code is hereby rejected.

(SHRIKANT D. KULKARNI, J.)

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