

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

CRIMINAL BAIL APPLICATION NO. 735 OF 2021

1. Bharat Bhikaji Dhamale	
2. Nikhil Bharat Dhamale	 Applicants
Versus	
The State of Maharashtra	 Respondent

Mr.Vikas B. Shivarkar, for the applicants.
Smt. A.A. Takalkar, APP for the State/Respondent.

CORAM: SARANG V. KOTWAL, J.
DATE : 4th MARCH, 2021

P.C. :

1. The applicants are seeking their release on bail in connection with C.R.No.412 of 2018 registered at Manchar Police Station, Pune, on 27/9/2018 under sections 498-A, 302, 304-B read with Section 34 of the Indian Penal Code. The applicants were arrested on 28/9/2018 and since then they are in custody.

2. Heard Mr. Vikas Shivarkar, learned counsel for the applicant and Smt. A.A. Takalkar , learned APP for the State.

3. The FIR was lodged by the father of the victim. The applicant No. 1 is father-in-law of the victim. The applicant No. 2 is brother-in-law of the victim. The victim and accused No.1 got married on 3/12/2017. On 27/9/2018 the first informant received a call from applicant No. 1 telling him that the victim had died. The informant and his family members went to the house of the victim. It is mentioned in the FIR that they reached the house within 15 minutes from the time they received the call at 10.00 a.m.. At that time both the the applicants, another brother-in-law Sumit, mother-in-law Sangita and victim's husband were present. The informant asked the applicant No.1 regarding cause of death. He told the informant that the victim was pregnant. She was vomiting regularly She could not eat food properly. Subsequently, the applicant no. 1 told the informant that the victim had hanged herself in a room. The informant got suspicious and he saw marks of strangulation by rope. Therefore he lodged this FIR. It is further mentioned in the FIR that whenever the victim

used to visit him, she used to complain that her husband's family including both applicant's used to harass her, used to beat her and used to demand money. After lodging of this FIR, the applicants were arrested on 28/9/2018. The post mortem notes mentioned cause of death as " death due to asphyxia due to strangulation". Viscera was preserved. There were signs of 10 to 12 weeks pregnancy.

4. After completion of the investigation the charge-sheet was filed. The case mentioned in the charge-sheet is that on 27/09/2018 at about 9.30 a.m. there was quarrel between the victim and her husband. Her husband in a fit of rage strangled the victim with a nylon rope.

5. Shri Shivarkar learned Counsel for the applicants submitted that the co-accused mother-in-law and other brother-in-law Sumit are granted bail by this Court (Coram: P.D. Naik, J.) vide order dated 3/2/2020

passed in Bail Application No. 1013 of 2019. He submitted that ground of parity is applicable to the present applicant. He relied on statement of one Ajit Bhosale who was employer of the applicant no. 2 to contend that the applicant no. 2 was not present in the village when the victim died in suspicious condition. He further submitted that applicant No.1's case is similar to that of mother-in-law who is granted bail.

6. Learned APP opposed this application based on the allegations in the FIR and in the other statements contained in the charge-sheet.

7. I have considered these submissions. The charge-sheet contains statements of other family members of the first informant which are identical to the narration in the FIR. There are general allegations against all the family members including the present applicants that the deceased was harassed for demand of money. However, the prosecution case at the conclusion of the

charge-sheet is very specific. According to that case, out of some quarrel which had taken place on that day at morning 9.30 a.m. victim's husband had strangled the victim and committed her murder.

8. As rightly submitted by the learned Counsel for the applicant, Ajit Bhosale's statement supports applicant No.2's case. This witness has stated that the applicant No. 2 was residing in the room owned by this witness, at village Santosh Nagar, Bham, Taluka Khed, District Pune on the date of the incident. The applicant No.2 had called him and told him that he had to go to his house in village Mhalunge Padwal as his sister-in-law had died. This witness was not in the village and, therefore applicant No.2 sought his permission telephonically. His statement thus shows that the applicant no. 2 was not present in the village where and when the deceased was murdered. Similar considerations were applied in the case of his brother Sumit who was granted bail by this Court vide previous order as mentioned earlier. He was

also not in the village when the victim died. As far as applicant no. 1 is concerned, his case is similar to that of his wife who is also granted bail by the same order.

9. Therefore, considering all these factors, applicants also deserve to be released on bail. They are in custody since 28/9/2018. The investigation is over and the charge-sheet is already filed.

10. Hence the following order.

ORDER

- (i) In connection with C.R. No.412 of 2018, registered with Manchar Police Station, Pune, the Applicants are directed to be released on bail on their furnishing PR bond in the sum of Rs.30.000/- each (Rupees Thirty Thousand Only) with one or two sureties each in the like amount.
- (ii) The application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)