

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.971 OF 2021**

Savita Deepak Kakde .. Applicant
Versus
The State of Maharashtra .. Respondent

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Mr.Aniket Nikam i/b Mr.Vivek Arote for the Applicant.
Mrs.A.A.Takalkar, APP for the State.

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**CORAM: BHARATI DANGRE, J.
DATED : 15th JULY, 2021**

P.C:-

1. The applicant is a young woman, aged 22 years, who seeks her release on bail in connection with C.R.No.336 of 2020 registered with Sangvi Police Station, District Pune for having committed the offence punishable under Section 302 of the IPC.

2. The said C.R. came to be registered on a complaint being lodged by her husband alleging that on 27/07/2020 he, alongwith his relatives had gone for performance of last rites of his mother, Kaveri at Aalandi. Since his wife, i.e. the applicant had delivered a child six months back, she did not accompany them and was left behind with their daughter, Disha aged 4 years, son Samarth and his sister's daughter

Anshita. While the religious ceremony was being performed at Aalandi, one Nagnath Shelke made a phone call to him and informed him that the applicant killed Disha by hitting her on head and thereafter strangulating her by means of a charger, since she was causing trouble to her. When the complainant reached the house, he noticed his wife sitting in the hall and his daughter lying motionless on the bed nearby, she was not breathing and was found to be dead. On inquiry with his wife, she disclosed that Disha was troubling her everyday and, therefore, she caught hold of her head and banged it and strangulated her by means of charger. He noticed the charger on the floor and the floor also had traces of vomit. When taken to the hospital, Disha was declared dead. The aforesaid complaint resulted into registration of FIR arraigning the applicant as an accused.

3. On postmortem being performed on the body of the deceased, the provisional cause of death has ascertained cause of death due to strangulation with head injury. The spot panchanama is drawn, which is in sync with the narration of the complaint. During investigation, statement of said Nagnath, who had made a phone call to the complainant is also recorded, who corroborate the case of of the prosecution. Statements of other relatives, including the sister of the complainant are also recorded, who also speak on similar lines.

4. The statement of the complainant is recorded under Section 164 of Cr.P.C. where he does not attribute the death of

Disha to the applicant, but merely state that his wife had made a phone call to him that her daughter had become unconscious and on reaching home, he found his daughter lying on bed in an unconscious condition and on being taken to the hospital, she was found to be dead. In the said statement, the complainant states that he was informed that his daughter fell on the ground and sustained a head injury and she succumbed to the same.

5. The offence with which the applicant is charged is serious one, but the complainant in his statement under Section 164 does not attribute the death of his daughter, Disha to the applicant. The prosecution rely upon the extra judicial confession made by the applicant to the complainant and the statements of the witnesses recorded are based on the telephone call made by the applicant. The complainant and the witnesses reiterate the said version. The extra judicial confession is considered as a weak piece of evidence and it will have to find some corroboration in order to establish the charge.

It is informed by learned counsel Mr.Niakm that the husband of the applicant has expired on 03/05/2021 and is no longer available for trial. The burden is upon the prosecution to establish the charge levelled against the applicant in the wake of cause of death as opined in the postmortem report. This, of course, is subject matter of trial.

6. As far as the present situation is concerned, investigation is complete and charge-sheet is already instituted. The applicant is arrested on the very same date of incident i.e. on 27/07/2020 and it is nearly an year when she is behind bar. In absence of the husband, she is the only surviving parent of their one and half year old boy, who it is informed is staying with the grandparents. The applicant will face the consequences of her act on culmination of the trial, but the baby without either of his parents to look after him, create a grim and disheartening scenario. This very contingency makes the applicant entitled for being released on bail, though she is accused of murdering her daughter, she does not cease to be a 'mother' for the young one. Considering her young age and the fact that there are no antecedents and since the learned APP has also not expressed any apprehension about her not being available for trial, the applicant is, therefore, directed to be released on bail, subject to the following stipulations.

: **ORDER** :

- (a) Application is allowed.
- (b) Applicant - Savita Deepak Kakde shall be released on bail in C.R.No.336 of 2020 registered with Sangvi Police Station, District Pune on furnishing P.R. bond to the extent of Rs.20,000/- with one or two sureties of the like amount.
- (c) The applicant shall not directly or indirectly make any inducement, threat or promise to any

person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and shall not tamper with the prosecution evidence.

- (d) The applicant shall mark her attendance in the concerned police station on first Monday of every month between 10.00 a.m. and 2.00 p.m., till charge is framed.
- (e) The applicant shall supply her contact number and place of residence to the Investigating Officer.

[SMT. BHARATI DANGRE, J]