

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1027 OF 2021**

Smt. Sheetal Sanjay Bhosale	...	Applicant
Versus		
State of Maharashtra	...	Respondent

Ms. Kshitija G. Sarangi, for the Applicant.

Mr. H. J. Dedhia, APP, for the State-Respondent.

CORAM : V. G. BISHT, J.

RESERVED ON : 26th October, 2021.

PRONOUNCED ON : 15th November, 2021.

PC:-

. The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in Crime No.1064 of 2019 registered with Wakad Police Station, District- Pune, for the offences punishable under Sections 302, 201, 109, 120B of the Indian Penal Code.

2 It is the case of prosecution that PSI of Rajgad Police Station, namely, S. V. Kadam lodged an FIR of accidental death registered No. 92/2019 about the death of Sanjay Pandurang Bhosale. After completion of investigation it was found that the applicant was the wife

of deceased. There were matrimonial disputes between them. It is alleged that the deceased used to suspect the character of the applicant. It also revealed that there was illicit relation of applicant and co-accused, namely, Yogesh Kamalakar Kadam and both of them decided to kill the deceased and accordingly on 07/11/2019 the applicant mixed the poison in a glass of water. It is further alleged that thereafter both the accused took the deceased to Pune-Satara Highway and threw the body. Accordingly, FIR came to be registered.

3 Ms. Sarangi, learned Counsel for the applicant, submits that the case of prosecution is based on circumstantial evidence. Although, it is alleged that the applicant gave poison to deceased in a glass of water and caused his death but the postmortem report depicts altogether different reason. According to learned Counsel, prosecution is relying on the statement of son of deceased, who at the relevant time was 11 years old. However, the said statement does not prima-facie prove the involvement of the applicant in the alleged offence. The investigation has been completed and charge-sheet is filed. There are no criminal antecedents. The applicant is permanent resident of Pune having small children, who are solely dependent on her. In such circumstances, the present application deserves to be allowed, argued learned Counsel.

4 Mr. Dedhia, learned APP, on the other hand, would oppose the submissions by contending that the deceased was in the company of applicant. There is a statement of son of applicant which clearly shows that his mother had given water to deceased and thereafter he fell down. Thus, the circumstances clearly indicate the involvement of the applicant in the offence. Having regard to the nature of offence, the application does not deserve consideration, submitted learned APP.

5 Perused investigation papers. The case of prosecution, admittedly, rests on circumstantial evidence. As far as the circumstance of deceased having seen in the company of the applicant is concerned, there is only statement of applicant's son, namely, Raj Bhosale, who at the relevant time was 11 years old. His statement is recorded on 20/11/2019. At para 11, he states that after the dinner was over, the deceased asked the applicant to bring water and accordingly the applicant gave glass of water. After consuming water his father uttered "अस काय पाणी लागतय" (why the water is testing different) and immediately fell down. Thereafter, the applicant asked this witness to go to bedroom. Accordingly he went and after some time he heard voices of people. Except this, nothing is on record to show that the applicant was immediately thereafter seen in the company of deceased.

6 Prosecution has also alleged that after the deceased collapsed, applicant with the help of co-accused Yogesh took the dead body in a hired car and threw the body on Pune-Satara Highway. Interestingly, not a single statement is recorded by the investigating officer to show the applicant was seen in the company of co-accused and further that both of them were carrying the dead body of the deceased along with them.

7 Although, it is further alleged that the co-accused had hired a car but then the driver of the said vehicle is not examined in order to substantiate that the driver had also seen both i.e. applicant and co-accused Yogesh along with a dead body of the deceased and that they carried the same in his vehicle. All that the investigating officer has done is examination of Mahesh Appasaheb Dhamnekar, who at the relevant time was working with ASS Justride Tours and Travels Pvt. Ltd. and his duty was to supply the car on rental basis. According to him, on 07/11/2019 co-accused Yogesh Kadam had booked a vehicle through online and at about 16-45 p.m. took the possession of the vehicle at pickup point and on 08/11/2019 he returned the vehicle at about 7-00 a.m. Except this there is nothing. So this circumstances also does not in any manner further the case of prosecution.

8 Coming to the Postmortem Report. It shows that the cause of death was due to head injury and viscera was preserved, however, no viscera report is forthcoming to show finding of any poisonous substance in the body of deceased.

9 The next circumstance relied upon by the prosecution is the disclosure statement allegedly given by the applicant under Section 27 of the Evidence Act. By the said disclosure statement a steel glass was recovered at the instance of applicant. In my considered opinion, this circumstance also does not help the prosecution.

10 Thus, having regard to the material on record, in my considered opinion, the applicant has made out a case for bail. The applicant is not only a woman but is also having two minor children, who are dependent on her. She has permanent resident at Pune. No criminal antecedents are brought on record. In such circumstances, I am inclined to allow the application. Hence, the following order.

ORDER

(i) **Applicant- Smt. Sheetal Sanjay Bhosale shall be released on bail in C.R. No. 1064 of 2019 registered with Wakad Police Station, District-Pune, on her executing P .R. bond in the sum of Rs.25,000/- with one**

or more sureties in like amount.

(ii) The applicant shall not tamper with the prosecution evidence and shall attend the trial regularly.

(iii) The observations made herein-above are prima-facie in its nature for the purpose of deciding the bail application only. The trial Court shall not be influenced by the observations while deciding the case on merits.

(iv) Parties to act on copy of this order duly authenticated by the Sheristedar of this Court.

(v) The application is allowed in the aforesaid terms.

(V. G. BISHT, J.)

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PRAKASH
PATIL

Digitally signed by
REKHA PRAKASH
PATIL

Date: 2021.11.15
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