

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

CRIMINAL BAIL APPLICATION NO.1084 OF 2020

Babasaheb Tukaram Yamgar Applicant

versus

State of Maharashtra Respondent

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- Mr.Rahul Singh i/b . Mr.M.S. Singh, Advocate for Applicant.
- Mr.S.H. Yadav, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 18th JUNE, 2021

(Through video conferencing)

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.475/2019 registered with Sangli Police Station, under sections 302, 201 of the Indian Penal Code. The Applicant was arrested on 31/12/2019 and since then he is in custody. The investigation is over and the charge-sheet is filed.

2. The FIR is lodged by one Dadaso Laxman Pujari. He has stated that, on 30/12/2019, at about 11.00 p.m., he

received a phone call from the present Applicant. He told the informant that he wanted to take his daughter Jagruti to dispensary. The informant called the Applicant to his house. He saw that Jagruti was unconscious. She was taken to government hospital. In the car, the Applicant told the informant that the Applicant had given blows to Jagruti, because she was having affair with a boy in the village. They reached hospital. Doctor declared her dead. Therefore this FIR was lodged and the Applicant was arrested.

3. Learned counsel for the Applicant submitted that the Applicant did not have intention to cause this offence. The offence will fall within exception 1 and 4 to section of 300 of IPC. He submitted that the Applicant himself took the deceased to the hospital. This means he had no intention to cause death of his daughter. The offence would not fall within the definition of murder under the IPC.

4. Learned APP opposed this application. He submitted

that the Applicant had acted in a cruel manner. He wiped the blood with a Dupatta and concealed it, which shows his criminal intention.

5. I have considered these submissions. With assistance of both the learned counsel, I have perused the charge-sheet. In the charge-sheet there are statements of other daughter Akshata and wife Vanita of the Applicant. They have stated that, on 30/12/2019, at about 04.00 p.m., the Applicant and his family members noticed that the deceased was talking with someone on mobile phone. The Applicant snatched her mobile phone and spoke to the person at the other end. One Abaso was speaking. He claimed that he was in love with Jagruti and both of them wanted to get married. The Applicant got angry. In the evening at around 08.00 p.m. the Applicant and his wife tried to tell Jagruti that she should stay away from Abaso and that she should not think of getting married with him, as he was not a good partner for her. But she started quarreling with the Applicant and his wife and started shouting . The Applicant got

angry. He picked up a stick, which was lying in the house and gave blows on back, head and on the hips of the deceased. He gave forceful blows. Therefore the stick broke into four pieces. Jagruti suffered bleeding injury to her head. The Applicant wiped the blood with a Dupatta and threw it in the cattle shed. The neighbours Rajendra Yamgar and his wife Deepali came there. They told the deceased not to beat Jagruti. After that the Applicant and his family members including the deceased went to sleep. At about 11.00 p.m. the deceased complained of severe headache. She started shouting and asking for water. She fell unconscious. The Applicant then arranged for a car and took her to hospital. But she was declared dead.

6. Heard Mr.Rahul Singh, learned counsel for the Applicant and Mr.S.H. Yadav, learned APP for the State.
7. The post-mortem notes show that the probable cause of death was head injury sustained by hard and blunt weapon. There were 8 injuries on the deceased. Out of which one was on

the left parieto temporal region. The others were on thigh, buttocks, leg, arm and shoulder. Thus, it appears that there was one serious head injury which had resulted in her death. There was undisplaced fracture of skull bone.

8. Undoubtedly the incident is quite unfortunate. However, it is difficult to observe that the Applicant had intention to commit murder of his daughter. There is one blow on the head, but other blows were on non-vital parts. The record shows that the deceased was in very early stage of pregnancy, which is reflected in the post-mortem notes. The viscera was sent for DNA analysis.

9. As rightly submitted by learned counsel for the Applicant, there was no premeditation. It happened on the spur of moment. There was no preparation. Stick which was lying in the house was used. The deceased was shouting at the Applicant, who was her father causing occurrence of this incident. Taking overall view of the matter, it does appear that

the offence may not fall within the meaning of murder as defined u/s 300 of the IPC. However, it would not be proper to observe anything further, as the said aspect will have to be determined by the trial Court at the conclusion of the trial. However, at this stage, the Applicant has sufficiently made out the case for his release on bail.

10. Hence, the following order :

ORDER

- (i) In connection with C.R.No.475/2019 registered with Sangli Police Station, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)