

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1458 OF 2021

1. VILAS S/O PRABHAKAR @ PRABU RATHOD
2. BALU S/O SHANKAR PAWAR
VERSUS
THE STATE OF MAHARASHTRA

...
Mr. S. S. Thombre, Advocate for the applicants.
Mr. A. M. Phule, APP for the respondent – State.
...

CORAM : SMT. VIBHA KANKANWADI, J.

Reserved on : 21.12.2021
Pronounced on : 03.01.2022

ORDER :-

1. Present application has been filed under Section 439 of the Code of Criminal Procedure by the accused persons, who have been arrested in connection with Crime No.235 of 2021 registered with Majalgaon Rural Police Station, Dist. Beed for the offences punishable under Section 302 read with Section 34 of Indian Penal Code.

2. Heard learned Advocate Mr. S. S. Thombre for the applicants and learned APP Mr. A. M. Phule for the respondent – State.

3. It has been vehemently submitted on behalf of the applicants that the applicants have been falsely implicated. Applicant No.2 is the

brother-in-law of applicant No.1 and the applicant No.1 is the brother-in-law of deceased. Deceased was the daughter of informant, who was married to the brother of the present applicant No.1. However, in the FIR itself, it is specifically stated that the parents-in-law of deceased and present applicant No.1 and his wife are residing separate since last about 2-3 years prior to the FIR. However, there was a ration shop in the name of father of present applicant No.1. Present applicant No.1 was conducting the affairs of the said shop, but due to the intervention of the informant and other relatives, the said shop was given to the husband of the deceased for running. Informant says that after considering the income that was generated from the shop, when the husband of the deceased started running it, present applicant started insisting the informant that the shop should be given to him. This proposal was resisted by the deceased and on that count, the present applicant, his wife, applicant No.2 and mother-in-law of the deceased used to harass deceased Meena. The said dispute was resolved by the informant by calling meeting of respectable persons. On 09.09.2021, at night time, Meena had called father and disclosed that the present applicants and others have quarreled with her and told that they would take the shop for running. She again called the informant with 4 to 5 persons. Even on 10.09.2021, Santosh i.e. son-in-law of the informant

was informing him that he should not come alone, but he should bring certain persons. Santosh was frequently calling informant stating that present applicants and wife of present applicant No.1 have come to the home and at about 5.30 p.m., Santosh informed informant that he should come immediately as Meena has consumed poisonous substance and he is taking her to hospital at Talkhed. Informant, his wife and others went to that hospital, where they could found that Meena was declared dead. After the last rites were performed, both the sons of the deceased told that the present applicants and wife of applicant No.1 had quarreled with Meena. Applicant No.2 had caught hold of hands of deceased Meena. Mother-in-law had opened her mouth and then the present applicant No.1 had forced Meena to consume insecticide and thereafter, they fled away and, therefore, on 11.09.2021, the FIR came to be lodged.

4. Learned Advocate for the applicants submitted that these events stated in the FIR clearly indicate that initially the husband of the deceased had informed the informant that she had consumed the poisonous substance, however, after the last rites were performed and the relatives had gathered, it appears that they had concocted the story. The statement of the child witnesses have been recorded when they were in the custody of the informant. Statement of the husband of the

deceased would also clarify that he had no idea as to what has gone wrong with his wife. The police also under the pressure from the media, which appears to have been contacted by the informant and his relatives and news was published in the newspapers, has acted accordingly. The postmortem report does not state any other injuries and, therefore, there is nothing on record to show that it was homicidal death. Now, the investigation is over and charge-sheet is filed. The applicants are ready to abide by the terms of the bail.

5. Per contra, the learned APP submitted that there is ample evidence against the present applicants. They do not deserve to be released on bail.

6. At the outset, it is to be noted that the person, who could have gone for rescuing her was her husband. What has been stated by the informant is that on phone call, his son-in-law had informed the him that deceased has consumed the insecticide. The incident had taken place on 10.09.2021, however, the statement of the husband has been taken on 02.10.2021. There is no explanation for the delay, which can be considered from the charge-sheet. Important point to be noted is that in his statement, he has stated that when the quarrel was going on between his mother, applicant No.1 i.e. brother, brother's wife and

brother-in-law of applicant No.1 with Meena, it started raining and, therefore, everybody went home. He also went home and fell asleep. He was awoken by his son on the count that Meena had fallen outside the house and froth was oozing out of her mouth. Santosh went near her and found that the wife was near staircase and she was vomiting. There was insecticide bottle near her, however, he says that nobody was present near her. Now, it is to be noted that child witnesses aged 8 and 7 are now giving statements against the present applicants. The final cause of death is reserved till chemical analysis as well as histopathological examination. Column No.17 shows that Meena had received CLW abrasion on toe and bruises on the thigh. With this kind of evidence, the applicants deserve to be released on bail. Hence, the following order :-

ORDER

- I) Application stands allowed and disposed of.
- II) Applicant No.1 – Vilas s/o Prabhakar @ Prabu Rathod, applicant No.2 – Balu s/o Shankar Pawar, who have been arrested in connection with Crime No.235 of 2021 registered with Majalgaon Rural Police Station, Dist. Beed for the offences punishable under Section 302 read with Section 34 of Indian Penal Code, be released on P. R. Bond of Rs.50,000/- with two sureties of Rs.25,000/- each.

- III) The applicants shall not tamper with the evidence of the prosecution in any manner.
- IV) They shall not indulge in any criminal activity.
- V) Bail before the Trial Court.

[SMT. VIBHA KANKANWADI, J.]

scm