

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

921 BAIL APPLICATION NO.1600 OF 2021

1. Laxmibai W/o Ramesh Rao Pawade
Age: 55 years, Occu.: Agri. & Household.
 2. Rohini W/o. Marotirao Pawade
Age: 20 years, Occu.: Agri. & Household,
Both R/o. : Pawade Wadi, Tq. & Dist.
Nanded.
- ..Applicants
(Orig. Accused)

VERSUS

- . The State of Maharashtra ..Respondent

...
Advocate for Applicants : Shri Avinash D. Hande
APP for Respondent : Smt.R.P.Gaur
...

CORAM : M.G.SEWLIKAR, J.

DATE: 18th January, 2022

PER COURT :-

1. Heard.
2. The deceased Chandrabhagabai Purbhaji Pawade was the mother of the informant. Informant is the married daughter of the deceased Chandrabhagabai. Applicant Nos.1 and 2 are the daughters-in-law of the deceased Chandrabhagabai. It is alleged in the FIR that on 6th April, 2021 at 03:00 p.m., applicant No.1 had taken the deceased to the hospital and applicant No.2

followed both of them. Applicant Nos.1 and 2 came back but the deceased did not come back. Applicant Nos.1 and 2, on questioning, started giving evasive answers. Therefore, the sons of the deceased i.e. husbands of applicant Nos.1 and 2 grew suspicious about applicant Nos.1 and 2. Applicant Nos.1 and 2 were called to the Police Station on 8th April, 2021. Applicant Nos.1 and 2 gave the confessional statement that on 6th April, 2021, on the pretext of taking deceased Chadrabhagabai for medical treatment, killed her by strangulation in the field of Sopanrao Babanrao Pawade and Gunwantrao Wamanrao Pawade at Pawade Wadi. They committed theft of golden ornaments i.e. one golden leaf, golden ear-rings and other ornaments. They were sold to a Goldsmith for Rs.20,000/-. They went to the Goldsmith in an Auto Rickshaw. On these allegations, report came to be lodged on the basis of which Crime No.0118 of 2021, came to be registered with Bhagyanagar Police Station, District Nanded, under Sections 302, 201, 404 read with Section 34 of the Indian Penal Code

3. Heard Shri A.D.Hande, learned counsel for the applicants and Smt.R.P.Gaur, learned APP for the respondent-State.

4. Shri Hande, learned counsel for the applicants submits that

missing report was filed on 7th April, 2021 by the son of the deceased Chandrabhagabai. In missing report, no suspicion was expressed on the applicants. He submits that there is only one witness who states that the deceased was seen in the company of the applicants and thereafter, she was found dead. She had seen them on 6th April 2021 only but her statement was recorded as late as on 21st May 2021. He states that ornaments are not identified by anyone.

5. Learned APP for the respondent-State argued that in FIR itself the motive of the applicants committing the offence is stated. Applicant No.1 one had withdrawn Rs.20,000/- from the account of her husband. Her husband was asking her as to whom Rs.20,000/- was paid. Applicant Nos.1 and 2 had taken the deceased out of the house on the pretext of taking her to the hospital. She submits that statement of Auto Rickshaw Driver is also recorded which shows that he had taken these two ladies to a Goldsmith and they sold the ornaments to the Goldsmith and proceeds of it of Rs.30,060/- were kept with Auto Rickshaw Driver. She submits that there is cogent evidence against the applicants.

6. Charge-sheet is filed.

7. It appears that on 7th April 2021 itself the applicants were questioned about the whereabouts of the deceased. However, in the missing report nothing is mentioned about the applicants having accompanied the deceased while taking her to the hospital. There are statements of two witnesses Gayabai Jaiwantrao Pawade and Sushma Shivaji Pawade stating therein that they had seen applicant Nos.1 and 2 with the deceased on 6th April, 2021 at 01:00 p.m. On enquiry, applicants stated that they were taking the deceased to the hospital. As per their own showing, they had seen the incident on 6th April 2021 but did not disclose it to anyone and their statements came to be recorded as late as on 21st May 2021. Statement of Auto Rickshaw Driver shows that he had taken the applicants to the shop of Goldsmith and these two ladies had sold the ornaments and proceeds of sale were kept with the Auto Rickshaw Driver. However, there is nothing on record to show that these ornaments were identified by the informant (the daughter of the deceased) or sons of the deceased. In this view of the matter, considering the fact that chain of circumstantial evidence is broken, I am inclined to release the applicants on bail.

ORDER

- i) Bail Application is allowed.

ii) Each of the Applicants be released on P.R.Bond of Rs.20,000/- (Rs.Twenty Thousand only) with one solvent surety in the like amount, in connection with Crime No.0118 of 2021, registered with Bhagyanagar Police Station, District Nanded, under Sections 302, 201, 404 read with Section 34 of the Indian Penal Code, and on condition that they shall not tamper the prosecution evidence.

iii) Bail Application is disposed of.

iv) It is clarified that the observations made in the above order are restricted to the decision of this application only and the trial Court shall not get influenced by the same and can come to its independent conclusion during trial.

(M.G.SEWLIKAR)
JUDGE

SPT