

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1641 OF 2021

Meenabai w/o Mansaram Pathade

Applicant

Versus

State of Maharashtra

Respondent

Mr. S.G. Bobde, Advocate for the applicant.

Mrs. R.P. Gour, APP for respondent/State.

CORAM : M.G. Sewlikar, J.

DATE : 28th JANUARY, 2022.

PER COURT :

1. Heard.

2. Informant is the son of Mansaram Pathade and applicant is the mother of the informant. Informant lodged a report on 1st June, 2021 that on 15th February, 2012, applicant and her husband Mansaram Pathade had been to village Kumbhephal for attending marriage. Applicant came back home after marriage ceremony was over. However, Mansaram Pathade did not return. Informant enquired with the applicant but she told him that Mansaram Pathade had been to village Varud Kazi for bringing bullocks from his sister.

Even after five days, Mansaram Pathade did not return. Therefore, missing report about Mansaram Pathade was filed on 21st May, 2012 in Karmad Police Station.

3. It is the further case of the prosecution that applicant came to be arrested in the present crime on 21st May, 2021. During interrogation, it was revealed that applicant and one Santosh Sarangdhar Pawar were having affair since 2005. Since Mansaram Pathade did not approve of the adulterous conduct of applicant, applicant and her paramour Santosh Pawar along with his associates decided to eliminate Mansaram Pathade. They took one Tata Sumo jeep on rent from one Dadarao Karhale, resident of Badnapur, came to village Kumbhephal and took Mansaram Pathade in that vehicle on the pretext of visiting one farm. On the way, Mansaram Pawar was administered sleeping pills by Santosh Pawar and his two associates. When Mansaram lost his consciousness, Santosh Pawar and his two associates throttled Mansaram Pathade and killed him. His dead body was thrown in the valley of Chalisgaon.

4. One dead body was allegedly of Mansaram Pathade was found in the valley of Chalisgaon on account of which, AD No.

18/2012 was registered. On these allegations, crime came to be registered against the applicant.

5. Learned APP Smt. Gour vehemently submits that Mansaram Pawar and applicant had been to village Kumbhephal for attending marriage. Applicant alone came back. When her sons tried to find out as to why Mansaram Pathade did not come back, she gave them evasive answers. She was not even ready to lodge missing report. Because of persistent questioning by informant and his brother, applicant reluctantly accompanied the informant to lodge missing report. She submitted that role of the applicant was revealed when her sister was arrested in connection with murder of her husband. She submitted that in the other crime, the spot was shown by accused No. 2 Santosh Pawar and in his memorandum under Section 27 of the Indian Evidence Act, he has taken name of the applicant to be a partner in crime. She further submitted that when body allegedly of Mansaram Pathade was found, it was in highly decomposed state. Medical Officer submitted a report that on account of the body being highly decomposed, Post Mortem was not possible.

6. Charge-sheet is filed. On going through the charge-sheet, it reveals that there is no evidence to show that the dead body found in the valley of Chalisgaon was of Mansaram Pathade. Even if it is assumed for the sake of argument that the dead body was of Mansaram Pathade, there is no evidence to show that the death was a homicidal death. Prosecution could not decipher as to whether the alleged dead body was of Mansaram Pathade. Unless it is established that the dead body was of Mansaram Pathade and it was a homicidal death, it cannot be said that there is prima facie evidence to indicate that applicant is the author of the crime. There is no evidence to indicate that Mansaram Pathade is dead. His dead body is not found. There is no eye witness to the incident. Circumstantial evidence is also not cogent to indicate that applicant is the author of the crime. In this view of the matter, I am inclined to release the applicant on bail. Hence the following order:-

ORDER

- i) Application is allowed.
- ii) Applicant is released on PR Bond of Rs.50,000/- (Rs. Fifty Thousand) with one solvent surety in the like amount in connection with Crime No. 241/2021 registered with Karmad Police Station, Vaijapur, Dist. Aurangabad, for the offences

punishable under Sections 302, 201, 120-B of the Indian Penal Code, on condition that she shall not enter village Karajgaon till the conclusion of the trial.

iii) Application is disposed of.

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

(M. G. SEWLIKAR)
Judge

dyb