

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

CRIMINAL BAIL APPLICATION NO.333 OF 2022

Kalpana Baliram Nagalkar ..Applicant
Versus
State of Maharashtra ..Respondent

Mr. Shantanu R. Phanse a/w Nilesh Navale, for the Applicant.
Smt. Rutuja Ambekar, APP for the Respondent.

CORAM : NITIN W. SAMBRE, J.

DATE : 19th JULY, 2022

P.C.

1. The earlier bail application was withdrawn on 6th October, 2021 with liberty to move afresh after the change in circumstances are noticed.

2. The fact remains that the arrest of the applicant is on 25th November, 2020 for an offence punishable under Sections 302, 120B, 201 r/w 34 of the Indian Penal Code, 1860 (hereinafter referred to as "the said Act" for the sake of brevity).

3. The prosecution story is, after the death of husband of the applicant, namely, Baliram, the deceased was in physical relation with the applicant. Since relationship with deceased was becoming uncomfortable, the prosecution claims that a conspiracy was hatched and

with the help of co-accused, applicant committed the serious offence.

4. Counsel for the applicant Mr. Shantanu Phanse would urge that there is hardly any evidence on record to infer that the angle of conspiracy. So as to substantiate his claim, he would invite attention of this Court to the statement of witness/Uday Das, who claimed to have lastly spoken with the deceased. According to Mr. Shantanu Phanse, even if story of the prosecution is appreciated, but for the statement of co-accused, there is no material available on record to infer *prima-facie* involvement of the applicant.

5. APP would oppose the prayer on the ground that apart from absence of change in circumstances, the entire case is based on circumstantial evidence. If bail is granted, the progress in the trial is likely to be hampered, as the applicant being wealthy lady will influence the witnesses. In addition the contentions are, even if there is no direct evidence, the circumstantial evidence pinpoints involvement of the applicant in the crime in question.

6. I have appreciated the submissions.

7. The genesis of the prosecution case is based on the illicit relations of the applicant post death of her husband with the deceased. It is the case of the

prosecution that the deceased was alcoholic and used to illtreat the applicant. As such, she has hatched conspiracy to eliminate the deceased with the help of co-accused. Statement of witnesses, discovery under Section 27 specifically implicates the applicant in the crime in question. This Court needs to be sensitive to the fact that deceased was residing with the applicant and since the deceased went untraceable, it was for the applicant to lodge the complaint as he was lastly seen in the company of the applicant.

8. The aforesaid fact is not explained by the applicant in the matter of grant of bail.

9. Apart from above, the statement of the witness/ Uday Das, which is relied on by the counsel for the applicant primarily demonstrates that the deceased went for consuming liquor and thereafter was untraceable. This specifically speaks of involvement of the applicant in the crime in question. Apart from above also, there are no change in circumstances, which have prompted this Court to reappreciating the prayer for bail. That being so, no case for bail is made out.

10. The application as such stands dismissed.

[NITIN W. SAMBRE, J.]