

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 498 OF 2020

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Osman Sanjay Gautam

..Applicant

V/s.

The State of Maharashtra

..Respondent

Mr. Deepak Girme for the Applicant.

Mr. A.R.Kapadnis, APP for the Respondent/State.

CORAM : C.V. BHADANG, J.

RESERVED ON : 1 FEBRUARY 2022

PRONOUNCED ON : 8 FEBRUARY 2022

(Through Video Conferencing)

P.C.

1. By this application, the Applicant/accused, is seeking bail. The Applicant has been chargesheeted for the offence punishable under Section 302 of IPC for having intentionally caused the death of his grandmother Chandni Ravindra Das alias Chandni Chauhan.

2. On 26.09.2019, the dead body of the deceased was found lying in a flat, where the deceased was staying alone. The said residential accommodation was given to her by her employer. It appears that FIR was accordingly lodged against an unidentified

person. During the course of the investigation, a spot panchnama was drawn along with inquest panchnama of the dead body. The dead body was sent for postmortem examination. However, on account of the fact that the dead body was in an advanced stage of decomposition, the Medical Officer conducting the autopsy, could not notice any injuries on the dead body and was even unable to opine about the cause of death. However, during the course of investigation, it was revealed that the Applicant was found in the CCTV footage of the society and “My Security App”, where the flat is situated and there were also other circumstances as to the disclosure of a glass bottle by the Applicant, which according to the prosecution was used in the offence in causing death of the deceased. According to the prosecution, the Applicant was demanding money to the deceased and was harassing her and on account of annoyance, as his demands were not satisfied, he caused murder of his grandmother. On completion of the investigation, a chargesheet is filed.

3. The learned Sessions Judge has refused to release the Applicant on bail.

4. I have heard the learned counsel for the Applicant and the learned APP. Perused record.

5. It is submitted by the learned counsel for the Applicant that there were no injuries found on the dead body, nor there is any cause of death which is on record. The learned counsel pointed out that as per the statement of the brother of the deceased, the deceased was suffering from heart and respiratory problem and she had informed her employer that she was suffering from dengue fever. Thus, according to the learned counsel for the Applicant, the possibility of the deceased having suffered natural death, when she was staying along cannot be ruled out. The learned counsel pointed out that CDR of the mobile phone of the deceased is last available upto 17.09.2019. Thus, according to the learned counsel in all probability, the deceased died on or about 17.09.2019 and that is the reason why her body was in a highly decomposed state, when it was found on 26.09.2019. The learned counsel then submitted that the glass bottle is a common household item, which was recovered and expert opinion shows that injuries were not possible by the said bottle. It is submitted that there is no motive and no Test Identification Parade was conducted and electronic evidence in the form of CCTV footage and My Gate Security App are not supported by a certificate under Section 65A of the Information Technology Act. He submitted that the evidence about the sale of mobile handset of the deceased by the Applicant also cannot prima facie be accepted. He pointed out that the case is based on circumstantial

evidence which is weak and not conclusive and therefore, the Applicant be released on bail.

7. The learned APP pointed out the antecedents/conduct of the Applicant in making demand of money to the deceased on account of his addiction. He submitted that the Applicant taking disadvantage of the fact that the deceased was staying alone had done her to death. The circumstances, at this stage are sufficient to prima facie show the complicity of the Applicant in the offence. It is submitted that the Applicant had sold the mobile handset of the deceased, which would indicate his complicity in the offence. Lastly, it is submitted that the Applicant is resident of Himachal Pradesh and there is likelihood of the Applicant not being available for the trial, if released on bail. The learned APP pointed out that the charge in the Sessions case has been framed and therefore, he submitted that the trial be expedited.

8. I have considered the submissions made.

9. It appears from the statement of Amardeep Chauhan, who is the brother of the deceased that the deceased had a daughter Madhavi, who was married to Sanjay Das. The Applicant is the son of Madhavi and Sanjay Das. Madhavi Das was working as a Receptionist and Tourist Guide at Hotel Ambassador at Manali, Himachal Pradesh. In the year 2003, Madhvi died in a Helicopter crash. As she died during the course of employment,

she had received compensation of Rs.20 lakhs, which was payable to the Applicant after he attained the age of 18 years. It appears from the statement of Amardeep as also Sanjay Das, who is the father of the Applicant that the Applicant had fallen into bad company, when he was taking education at Delhi and Chennai and was given to various vices including drugs. Prima facie it appears that he was asking for money to the deceased and used to harass her. This according to the prosecution is the motive behind the offence. The prosecution is also relying upon the CCTV footage in and around the date of incident and the entry in the My Gate Security App. The statement of Amardeep Chauhan shows that he had gifted a mobile of Vivo company Y-90 (IMEI No. 863521047659579) to the deceased, who was his sister, on her birth date. That mobile handset has been recovered by the Investigating Officer at the instance of the Applicant under Section 27 of the Evidence Act. These are some of the circumstances which are relied upon by the prosecution to show the complicity of the Applicant in the offence. It is true that the case is based on circumstantial evidence. However, the fact remain that this is not the stage to examine and appreciate the evidence in details. Even so far as cause of death is concerned, it could not be determined on account of the fact that the dead body was in a highly decomposed state.

10. In this case the charge is said to be framed on 12.01.2022. The Applicant is in custody since 01.10.2019. At this stage,

regard can be had to the apprehension expressed on behalf of the State about the possibility of the Applicant not being available for trial as he is resident of Himachal Pradesh. Considering the overall circumstances, in my view, it would be appropriate to expedite the trial at this stage.

11. In such circumstances, Criminal Application is rejected. The trial is expedited with liberty to the Applicant to renew the request for bail, if there is no substantial progress in the trial within six months from today.

(C.V. BHADANG, J.)