

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.769 OF 2021

Anjana Dinesh Patil .. Applicant
Versus
The State of Maharashtra .. Respondent

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Mr.Karan Bhosle with Ms.Megha Gupta, Aamrin Malik i/b
Hedgehog & Fox LLP for the Applicant.

Mr.S.V.Gavand, A.P.P. for the State/Respondent.

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CORAM: BHARATI DANGRE, J.
DATED : 13th OCTOBER, 2022

P.C:-

1. In C.R.No.214 of 2020 registered with Tilak Nagar Police Station, the applicant came to be arrested on 16/07/2020. The applicant is accused of causing death of one Saj nabai Dhondiram Patil, her mother-in-law. On completion of investigation, she has been charged for the offences punishable under Sections 302 and 201 of IPC.

2. Heard learned counsel Mr.Karan Bhosle for the applicant and learned A.P.P. Mr.Gavand for the State.

Learned counsel for the applicant, by inviting my attention to the material compiled in the charge-sheet, would

focus on the lacuna in the prosecution case, giving rise to an inference that the applicant is innocent and has been falsely implicated in the case. He would submit that there is no cogent material in the charge-sheet, which would be considered as incriminatory, as the time when the deceased was found dead in the room, the applicant was present with her sister at her mother's flat/room in the same building. According to him the case of the prosecution is based on circumstantial evidence and the chain of circumstances falls short of conclusively establishing her guilt. The report of the forensic analysis, which is relied upon by the prosecution is also insufficient to establish her guilt, is the submission of the learned counsel.

Per contra, learned A.P.P. Mr.Gavand would invite my attention to the circumstances one by one and relying upon the statements of the applicant's minor children recorded under Section 161 of Cr.P.C., he would submit that the applicant was present in the house alongwith the deceased and recovery of certain articles from her vide memorandum panchnama recorded under Section 27 of the Evidence Act, sufficiently establish her connect to the crime in question. He would, therefore, submit that considering the gravity of the accusations and the brutal manner in which deceased was done to death, the application deserve to be rejected.

3. With the assistance of the respective counsel, I have perused the material in the charge-sheet, which has crystallized the case of the prosecution. The complainant is a Police Sub-Inspector, who reported to the police station that on 13/07/2020, a message was transmitted that one Saj nabai

Patil, aged 70 years, resident of Tilak Nagar, Chembur had slipped in her house at around 15.00 hrs. and has sustained injuries to her head and being taken to Rajawadi Hospital. She was declared dead at 16.05 hrs, which resulted in registration of A.D.No.75 of 2020 under Section 174 of Cr.P.C.

It was reported that the deceased had sustained several injuries on her head, but when her hair were shaved, presence of 13 injuries was noticed and the injuries were said to have been caused by a pointed weapon and on her temporal region also, there was one injury. Ligature mark was also noticed around the neck and on the spot, one rope was also found.

4. It is in the above circumstances that an offence was registered under Section 302 of IPC, recording that the death is homicidal. On the spot panchnama being conducted, blood stains were found on the floor of the room as well as in the bathroom and also on the walls of the room. Bangle pieces were found scattered on the spot, alongwith beads of a mangalsutra (a golden chain with black beads with blood stains). Further, one wooden bat and red colour rope were also recovered.

The inquest panchnama was conducted, which recorded 13 injuries on the head with one injury in the middle portion of the temporal region.

The postmortem report, in column No.17, recorded 20 injuries, largely the injuries being chop injuries alongwith the presence of ligature mark in form of pressure abrasion over the anterior aspect of neck above the level of thyroid cartilage.

Apart from this, multiple contusions and two incised wounds are also recorded. Column No.19 record presence of under-scalp hemorrhage.

The cause of death is opined as “head injury”.

5. The investigation machinery was set into motion and statements of the persons in the neighbourhood as well as members of the family were recorded. The applicant came to be arrested on 16/07/2020. On her arrest, memorandum panchnama under Section 27 of IPC was drawn on 20/07/2020, which led to discovery of articles like red colour petticoat with stains, ear rings, finger ring, a partly broken mangalsutra as well as one iron chopper wrapped in a white bag, having red colour stains.

Surprisingly, though through discovery panchnama, the applicant led to the above articles, the panchnama records seizure of cash and ornaments, but there is no seizure of the iron chopper, which was discovered at the instance of the applicant.

6. The statements of witnesses include the statement of the husband of the applicant, Dinesh Patil, who had stated that his aunt Sajnabai was residing with his family and, since, she had no children of her own, she was treated as mother by him as well by his siblings. He was working as a Driver in a company and was in habit of leaving early for work and returning by evening.

On the date of incident i.e. on 13/07/2020, he left for his job at 8.15 a.m. and at 3.45 p.m., he received a phone call from his sister-in-law informing that Saj nabai was taken to the hospital. Thereupon he reached the hospital and was informed that his aunt/mother had slipped in the house and had sustained injuries on her head.

7. Statements of two minor children of the applicant, Ajinkya and Ashwini aged 11 and 13 years respectively, are also compiled in the charge-sheet, who have stated that when they left for playing after having their breakfast, their mother and 'aaji' i.e. deceased were alone at home. It is stated by them that when their aunt came out shouting that the grandmother had fallen in the house, they entered the house and found her lying on the floor. The children clarify that no quarrel had taken place, but they also state that the grandmother was questioning, how the lock of her trunk was broken open.

Statement of Surekha Khalse, sister of Dinesh is also recorded, who state that her aunt Saj nabai was looked after by Dinesh and his wife and she used to often come to visit her. She has also stated that the in-laws of her brother Dinesh i.e. parents of the applicant used to stay in the same building on the 4th floor. In the afternoon at 3.30 p.m.m when she visited her aunt, the door was ajar and when she pushed it, she found Saj nabai lying on the floor, without any movement and blood was oozing from her head. She, therefore, raised an alarm and at that time, nobody was present in the house. She went on the 4th floor, where she found the applicant present alongwith

her other family members and all of them came on the ground floor, where the deceased was lying in a pool of blood.

Statements of the persons residing the neighbourhood are also recorded, who stated that deceased and her sister Savitri used to pray for alms at Balaji and Ram Mandir in Ghatkopar and, since, the deceased had no children of her own, but her sister had two sons and three daughters, Dinesh, the son of her sister, was adopted by her and she was looking after him as her own son. Dinesh was married to the applicant and the witnesses have stated that the relationship between the daughter-in-law and the deceased was cordial, though at times, quibble used to occur.

8. The case of the prosecution is, the applicant had caused death of the deceased and in order to prove the same, the articles which are seized from the spot and which are discovered at the instance of the applicant vide the discovery panchnama, came to be forwarded to the Directorate of Forensic Laboratory and the reports received are relied upon.

9. When the result of analysis is carefully perused, it can be seen that the pieces of the mangalsutra recovered from the spot as well as the scrapping from the wall as well as other article seized from the spot are stained with blood. Similarly the gown, pillow and saree recovered from the spot are stained with blood at several places. The bed-sheet, which was also recovered, had innumerable blood stains. The scrapings of the walls were also seized.

Article C-1, which is a petticoat seized through the discovery panchnama, being Art.26 is detected with human blood, but grouping could not be done as the results are inconclusive. Surprisingly, the chopper, which was sent for analysis, though not seized as per the panchnama, also finds traces of human blood, but the blood grouping is inconclusive.

Blood of the deceased, which was forwarded for analysis, does not give it's grouping, as it is found unsuitable for grouping. Since, the blood group of the deceased is not ascertained and on the articles recovered from the applicant, even considering the chopper, the blood group could not be ascertained, the reports of analysis of the articles do not, prima facie, incriminate the applicant. Article C-3, which are black and metal beads, though recovered at the instance of the applicant in the memorandum panchnama dated 17/07/2020, which do not has any reference to blood stains, when forwarded for chemical analysis and numbered as Exh.2, is found to have blood of group AB.

10. Learned counsel Mr.Bhosle is perfectly justified in bringing the said inconsistency to my notice, as regards the chopper, which was never seized and the beads which were discovered at the instance of the applicant, in the seizure panchnama not refer to any blood stains on it.

11. The case of the prosecution is based on circumstantial evidence and, prima facie, since it does not conclusively lead to the guilt of the applicant and the evidence collected falls short

of connecting the applicant to the offence with which, she is charged, she deserve her release on bail.

It is settled position of law that the circumstances from which the conclusion of guilt has to be drawn, should be fully proved and such circumstances must be conclusive in nature and they should be roped in form of chain, with no gap left in the chain. Since the material in the charge-sheet falls short of the above test, the applicant deserve her release on bail though she may take the consequences of the charge of murder, when she face the trial. Ultimately, the burden would lie upon the prosecution to prove the complete chain of circumstances, by bringing on record cogent and reliable evidence, which would only pinpoint to the guilt of the applicant.

12. Needless to state that the observations made above are, *prima facie*, in nature and limited to the extent of adjudication of the present application and the learned Judge trying the applicant for the offences with which she is charged, shall not get influenced by the above observations, in any manner.

: **ORDER** :

- (a) Application is allowed.
- (b) Applicant – Anjana Dinesh Patil shall be released on bail in connection with C.R.No.214 of 2020 registered with Tilak Nagar Police Station on furnishing P.R. Bond to the extent of Rs.25,000/- with one or two sureties in the like amount.

The applicant shall be released on cash bail for a period of six weeks from today in lieu of sureties and during the said period, she shall arrange for the sureties.

(c) The applicant shall mark his attendance before the concerned police station on first Monday of every trimester between 3.00 p.m. to 5.00 p.m. till framing of charge and, thereafter, shall abide by the directions issued by the trial Court.

(d) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.

(e) On being released on bail, the applicant shall furnish her contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(SMT. BHARATI DANGRE, J.)