

rajshree

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.739 OF 2022

Antulya Kisan Pawar	]	..	Applicant
vs.			
State of Maharashtra	]	..	Respondent

Mr.P.A.Pol a/w Ranjit S. Hatkar i/b Pol Legal Juris for the applicant.
Ms.Rutuja Ambekar, APP for the State.

CORAM : BHARATI DANGRE, J

DATE : 20th DECEMBER, 2022.

P.C.

1] On an earlier occasion, I had expressed my disinclination to entertain the Application on examining the merits of the matter, on perusal of the material compiled in the charge-sheet. But, in the order dated 15.07.2021, I had expressed that if no charge is framed within a period of six months, the Applicant is at liberty to move a fresh Application.

2] Pursuant to the liberty conferred, the second Application is filed on 23.02.2022, taking benefit of the fact that charge has not been framed. It is informed that till date, when we are at the end of year 2022, charge is not yet framed.

3] Mr.Pol, the learned counsel for the Applicant has placed on

record the Roznama and Proceedings of Sessions Case No.177/2019 and it can be seen that from 03.03.2021 to 18.01.2022 the case has been listed for production of accused. It is clearly seen that there is no progress in the trial.

4] This has compelled me to once again look at the material compiled in the charge-sheet alongwith the additional ground of long incarceration, the Applicant being arrested on 05.05.2019 and he completing more than three years of his incarceration.

The prosecution allege that on 05.05.2019 the Applicant and his wife assaulted the sister in law of the complainant and caused her to death, after brief altercation. Undisputedly, there are eye witnesses to the incident since the dispute involved family members.

The Applicants were charged under Section 302, 323, 504, 506 read with 34 of the Indian Penal Code. Accused No.2- wife of the Applicant is already released on bail and the other two accused are being tried as juvenile.

5] I have perused the Postmortem report, in which, Column No.17 refer to two wounds, one major and one minor. The major wound is a stab wound located over left side below chest cage at region of hypochondrium. The wound measures 3.5 cm. X 3.5 cm. x 1.5 cm. Corresponding to this injury is the another injury mentioned in column No.20 of the Postmortem Report i.e. fracture in the rib lower side of chest cage. The cause of death has been opined as, "Death due to cardiac rupture and hemorrhagic shock following stab wound injury."

6] The material compiled in the charge-sheet in form of statement of complainant and witnesses refer to the verbal altercation, which

resulted into an incident, on account of some matrimonial discord and it is the case of prosecution that the Applicant became violent and threatened the deceased that he would not keep her alive and by pointing knife which he was holding, he assaulted the deceased in her stomach, near the left side of the ribs.

The case of the prosecution is consistent to the effect that a single stab injury which is attributed to the present Applicant, has resulted into the death of the deceased.

7] The investigation is complete and the entire material is compiled in the charge-sheet and nothing remains to be recovered from the Applicant. The prosecution also do not come up with the case that the applicant will flee from justice and he will not be available to face the trial.

Further, long incarceration of the Applicant, pending trial with its conclusion not in foresight, since even till date the charge is not framed, is also another ground which permit me to secure the Applicant his liberty.

8] The observations made above, are prima facie in nature, and limited for the purpose of determination of the present Application and the learned Judge trying the Applicant for the offences, with which he is charged, shall not in any manner be influenced by the above order.

Hence, the following order :

ORDER

- (a) Bail Application is allowed.
- (b) Applicant – Antulya Kisan Pawar shall be released on

bail in connection with C.R.No.203/2019 registered with Bhigwan Police Station, on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.

(c) The applicant shall report to the concerned Police Station on first Saturday of every month between 04.00 p.m. to 06.00 p.m., till framing of charge.

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

(e) The Applicant shall regularly attend trial, on every date, unless exempted and his absence for more than 3 days would permit the concerned Court to take appropriate action.

(f) Upon release, the Applicant shall furnish his contact number and permanent residential addresses to the Investigating Officer and shall keep him updated in case of change in the same.

[BHARATI DANGRE, J]