

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

**INTERIM APPLICATION NO. 906 OF 2020
IN
CRIMINAL APPEAL NO. 1379 OF 2019**

Padmini Vitthal Malge

..Applicant.

Versus

The State of Maharashtra & Anr.

..Respondents

Mr. Ritesh Thobde for Applicant/Appellant.

Mr. S. D. Chandak, (Appointed Advocate) for Respondent No.2.

Mr. S. S. Hulke, APP for State.

CORAM : S. S. SHINDE AND
SARANG V. KOTWAL, JJ.
DATE : 16th MARCH 2022.

PC :

1. The Applicant Padmini Malge is seeking her release on bail during the pendency and final disposal of Criminal Appeal No. 1379 of 2019.

2. Heard Shri. Ritesh Thobde, learned counsel for the Applicant, Shri. Chandak, learned counsel for the Respondent No.2 and Shri. Hulke, learned APP for the State.

3. Learned counsel for the applicant states that the applicant was on bail during trial. She was taken in custody after her conviction on 16/09/2019 and since then she is in custody. The

appeal is likely to take a long time to be listed on final hearing board. He invited our attention to the prosecution case brought forth by PW-12. The prosecution case is about the death of two young girls namely Nikita and Chakuli. Nikita was daughter in law of the applicant. Nikita had eloped two months prior to the incident with the accused No.1 who is applicant's son. The incident in question is dated 20/04/2014. According to the prosecution case, both these deceased died due to poisoning.

4. Shri. Thobde, learned counsel for the applicant invited our attention to the evidence of PW-12. She was other daughter in law of the applicant and she was residing in the same house. Therefore, her evidence is important. She has stated that, all the accused including the present applicant were harassing the deceased Nikita on the ground that they wanted dowry of Rs.2 lakhs. She has further stated that, on the date of incident the applicant had accompanied this witness to her agricultural field. Both the deceased were in the house. At one point of time, this witness and the applicant had returned home. This witness had left for her field work earlier and the applicant had joined her after half an hour. But, she has categorically stated that, when this witness PW-12 and the applicant were in the field, Nikita's husband Mohan i.e. accused No.1 and applicant's husband i.e. accused No.3, as well as, second deceased Chakuli were in the house. She has also stated in her evidence that after last rites were performed on Nikita, she had asked accused No.1 about the incident. At that time, he had

told her that, he had mixed poisonous substance (themete) in a cold drink and had given it to both the deceased. Thus, her evidence shows that, it is the accused No.1 who has committed this offence. There is a strong possibility that the applicant No.1 was with this witness when the incident of consumption of poison had taken place inside the house.

5. Though, there are allegations that the deceased Nikita was harassed even by the applicant; that would amount to offence under section 498A of IPC, for which the applicant is already in custody since 16/09/2019. As far as, the main offence under section 302 and 304-B of IPC is concerned, as discussed earlier, the evidence against the present applicant, in particular, is weak.

6. As rightly submitted by Shri. Thobde that the Appeal is likely to take a long time to be listed on the final hearing board.

7. Though, learned counsel for the Respondent No.2 opposed this application, he could not really get over the evidence of PW-12.

8. Learned counsel for the applicant submitted that the applicant was on bail during trial and she has not misused the liberty. Nothing is brought to our notice controverting this statement.

9. In this view of the matter, the applicant deserves to be released on bail during pendency of this Appeal.

10. Hence, the following order :

ORDER

- (i) During the pendency and final disposal of Criminal Appeal No. 1379 of 2019, the applicant is directed to be released on bail on her furnishing P.R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) The Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)

(S. S. SHINDE, J.)