

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

**INTERIM APPLICATION NO. 1404 OF 2022
IN
CRIMINAL APPEAL NO. 269 OF 2019**

Poonam Udalsing Thakur ..Applicant.
Versus
The State of Maharashtra ..Respondent

Mr. Aniket Vagal for Applicant.
Ms. Veera Shinde, APP for State/Respondent.

**CORAM : S. S. SHINDE AND
SARANG V. KOTWAL, JJ.
DATE : 5th MAY 2022.**

PC :

1. The applicant has filed this application for her release on bail during the pendency and final disposal of Criminal Appeal No. 269 of 2019.

2. Heard Shri. Aniket Vagal, learned counsel for the applicant and Ms. Veera Shinde, learned APP for the State.

3. The case of the prosecution is that the applicant was having love affair with one Chandrikaprasad Yadav; the deceased in this case. The incident took place on 23/09/2015 when the

deceased had gone to the house of the applicant and her husband. From that time the deceased was not seen. The house of the applicant was found locked. When the police and others entered the house, Chandrikaprasad was found dead inside the house. On this basis the F.I.R. was lodged at Dattawadi police station. The investigation was carried out. The applicant and her husband were arrested. The applicant is in custody since 21/12/2015. During the trial, the prosecution examined 12 witnesses. The postmortem was conducted by PW-9 Dr. Abhijeet bandgar. There were 7 injuries including one injury on the head. The cause of death was mentioned as “evidence of blunt trauma to head and neck”.

4. Learned counsel for the applicant submitted that, it is a case based on circumstantial evidence. There is no motive for the applicant to commit murder of the deceased. Even as per the prosecution case, they were having love affair. The strong suspicion could be at the highest against the husband of the applicant and not against the applicant. There are no other incriminating circumstances except the evidence of PW-4, PW-5 and PW-6 who had seen the deceased going to the house of the

applicant. Their evidence is also not clear whether the applicant was in the house at the time of commission of offence. Learned counsel for the applicant further added that the applicant has five children who are at present in a shelter home.

5. Learned APP opposed this application. She submitted that, there are strong circumstances against the applicant. The dead body was found wrapped in a bed-sheet. The house was locked and, therefore, the applicant had definitely helped her husband in concealing the body and leaving the house.

6. We have considered these submissions. The evidence of PW-1 Nagendra Yadav clearly mentions that there was love affair between the deceased and the present applicant. The deceased had given Rs.30000/- as hand-loan to the applicant. The wife of the deceased had demanded it back from the applicant and there was some quarrel between the wife of the deceased and the applicant. From 23/09/2015 the deceased was not seen. Therefore, he had lodged report about missing of the deceased and then lodged the F.I.R. after the deceased was found in the house of the applicant

and her husband.

7. The main witnesses are PW-4 Yogesh Rathod, PW-5 Satywan Jagdhane and PW-6 Babasaheb Lolanke. Their evidence is similar. They have deposed that, on 23/09/2015 the accused Udalsing and the present applicant were in the house. After some time, Chandrikaprasad also was seen in the house. Thereafter quarrel was heard. It was in loud voice between accused No.1 and Chandrikaprasad. From the evening onwards, door of the house was found locked. On the next day, police came to the house of accused and the dead body of the deceased was found. This evidence shows that the quarrel was between the deceased and the applicant's husband. In this background, there does not seem to be any motive for the applicant to commit murder of the deceased. The quarrel was basically between the deceased and the applicant's husband. Therefore, at this stage, leniency can be shown to the applicant. She is a lady. She has minor children who are in a shelter home. The applicant is in custody since December 2015. Her husband is also in custody. Therefore, her further custody during pendency of the appeal is not necessary. The appeal

is likely to take a long time to reach its conclusion. She can be granted bail pending the appeal.

8. Hence, the following order:

O R D E R

- i) During the pendency and final disposal of Criminal Appeal No. 269 of 2019, the Applicant is directed to be released on bail on her furnishing P.R.bond in the sum of Rs.10,000/- (Rupees Ten Thousand only) with one or two sureties in the like amount.
- ii) Considering the background of the case, for initial period of two months the applicant is permitted to furnish cash bail in the same amount. On her furnishing this amount, she shall be released forthwith on bail. She will have to furnish the sureties in those two months.
- iii) The application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)

(S. S. SHINDE, J.)