

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

CRIMINAL BAIL APPLICATION NO. 1133 OF 2020

Kamalabai Krushna Patil	 Applicant
Versus	
The State of Maharashtra	 Respondent

**WITH
INTERIM APPLICATION NO. 387 OF 2021**

Vasant Laxman Bhoir	 Intervenor.
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In the matter between:

Kamalabai Krushna Patil	 Applicant
Versus	
The State of Maharashtra	 Respondent

Mr. Balwant Salunke a/w. Mr. D. N. Gondhali for Applicant.
Ms. S. S. Kaushik, APP for State/Respondent.

**CORAM : SARANG V. KOTWAL, J.
DATE : 23rd FEBRUARY 2022**

P.C. :

1. The Applicant is seeking her release on bail in connection with C.R.No.I 254 of 2019 registered at Hill Line police station, on 19/07/2019, under section 302 of the Indian Penal Code (for short 'IPC'). Subsequently, section 34 of IPC is also

applied. The applicant is arrested on 20/07/2019 and since then she is in custody. The investigation is over and the charge-sheet is already filed.

2. Heard , learned counsel for the applicant and , learned APP for the State.

3. The prosecution story, in brief, is that the deceased Vaishali was married to the applicant's son Rajendra. There are allegations that, after marriage she was harassed, particularly, on the ground that she delivered two daughters. The deceased was illtreated by the applicant and her son. The nature of illtreatment was assault, abuses etc. On 19/07/2019, the applicant's son assaulted the deceased with sickle and caused her death. The prosecution case is that the applicant instigated her son to commit this act.

4. Learned counsel for the applicant submitted that, there are no eye witnesses to the incident. The case is based purely on circumstantial evidence. The circumstantial evidence against her is very weak. The circumstantial evidence does not form a complete chain against her. The main allegations are against her son. The

main evidence is against her son. He further submitted that the applicant is 67 years of age. She is in custody since 19/07/2019. The trial is not likely to commence soon. Considering the weak piece of evidence, she deserves bail.

5. Learned APP opposed this application. She submitted that, bare reading of statements of neighbours, as well as, father of the deceased shows that the deceased was illtreated and harassed by the present applicant. Therefore, her involvement is obvious. She submitted that the applicant was in the house when the incident had taken place and that is also a strong circumstance against the applicant.

6. I have considered these submissions. With the assistance of both learned counsel I have perused the entire charge-sheet.

7. The F.I.R. is lodged by one Jayant Patil who was Police Patil of Hajimalang wadi where the deceased, applicant and Rajendra were staying together with Rajendra's two daughters. On 19/07/2019, at about 6.30p.m. the first informant saw Rajendra's elder daughter standing on the road. She was crying. The

informant asked her whereabouts of her parents, but she was not aware. After some time, the main accused Rajendra came towards his house. The informant inquired with him. At that time, Rajendra told him that he had committed murder of his wife with sickle. The informant apprehended Rajendra. He called the police officers and they arrested him. They went to Rajendra's house. There they found Vaishali's body. There was bleeding injury to her head. The Doctor was called and death of the deceased was confirmed. Based on this, the F.I.R. was lodged.

8. The Postmortem notes show that the deceased had suffered about 13 injuries, mainly on her head and chest. The cause of death was mentioned as "hemorrhagic shock due to multiple injuries over body and face and head injury". Therefore, there is no doubt that the deceased died homicidal death with a sharp weapon.

9. The important statements in the charge-sheet were of neighbours and relatives and particularly, of elder daughter of Rajendra. His daughter was 7 years of age. In her first statement, she has not implicated the applicant. In fact, she has stated that

there was no quarrel between the applicant and deceased. In her second statement dated 02/08/2019, she added that the applicant and her son Rajendra used to quarrel with the deceased and they used to illtreat the deceased. As far as, incident dated 19/07/2019 is concerned, she has stated that, Rajendra had received a phone call from his sister i.e. applicant's daughter. According to this child witness, the applicant's daughter instigated Rajendra to commit murder of deceased. The daughter immediately told the deceased about this, but the deceased ignored that. Thereafter the daughter went to her school. Her statement was also recorded U/s.164 of Cr.p.c. At that time, she had elaborated as to how she heard the conversation. She stated that the phone call was received by Rajendra from his sister. The applicant was also in the room and Rajendra had kept the phone on speaker. Therefore, even the applicant was hearing the conversation, as well as, this child witness also could hear the conversation. Here again her story was that, Rajendra's sister had instigated him to commit murder of the deceased.

10. Vasant Bhoir, who was father of the deceased had

narrated as to how the deceased was harassed by the applicant and her son. Apart from this statement, there are statements of neighbours and relatives of applicant and Rajendra.

11. The police Patil i.e. first informant had given his statement U/s.164 of Cr.p.c. and it corroborated the F.I.R. The statement of Rajendra's sister Jagruti was recorded. She has stated that, on 19/07/2019, at about 3.00p.m. Rajendra had come to her house. The present applicant's daughter Rupali, Rupali's husband Gopinath and Rajendra's elder daughter Bhumika came separately in a four wheeler to this witness's house. At that time, Rajendra told all of them that he had committed murder of Vaishali. This witness's statement is also recorded U/s.164 of Cr.p.c. Rupali's husband Gopinath has also given similar statement. The applicant's brother Dattatray Bhagyawant had also stated that, on 19/07/2019, at about 3.00p.m. Rajendra had approached him and had told this witness that he had committed murder of his wife. He had brought the applicant and his younger daughter to this witness's house. After this, this witness took the applicant and Rajendra's younger daughter to Rupali's house.

12. Thus, all these statements are consistent. The prosecution story is that, accused Rajendra had accepted his guilt by giving extrajudicial confession before many witnesses. On every such occasion, he had specifically told that, he had committed murder of the deceased. There was no reference to the applicant's role. There was strong possibility that, husband of the deceased Rajendra on his own had committed murder of the deceased. The statement of child witness, in fact, suggests that, applicant's daughter, and not the applicant, had instigated Rajendra to commit murder of deceased. The case against the applicant is about causing illtreatment and harassment, for which section 498-A of IPC is applied. But the applicant is already in custody since 20/07/2019. The evidence, as far as, offence of murder is concerned, is very weak against the present applicant. The blood stains found on her saree are not unusual because, according to the prosecution case, she was in the house. The important question is whether she has taken part in the offence. However, extrajudicial confession of main accused Rajendra shows that he had committed murder of the deceased. In this view of the matter, the applicant

can be granted bail, particularly when she is 67 years of age. She is in custody for more than two and half years. The trial is not likely to commence soon. In view of this discussion, I am inclined to grant bail to the applicant.

13. Hence, the following order :

ORDER

- (i) In connection with C.R.No.I 254 of 2019 registered at Hill Line police station, the applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) Application stands disposed of accordingly.
- (iii) With disposal of this application, the interim application does not survive and it is also disposed of accordingly.

(SARANG V. KOTWAL, J.)