

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.3939 OF 2021**

Akshay Gorakh Chavan ... Applicant
versus
State of Maharashtra ... Respondent

Mr. Satyavrat Joshi i/by Mr. Samay S. Pawar, for Applicant.
Mrs. J.S.Lohakare, APP, for State.

CORAM: N.J.JAMADAR, J.

DATE : 22nd JUNE, 2022

P.C.

1. By virtue of this Application, the Applicant who is arraigned in C.R.No.292 of 2022 registered with Atpadi Police Station, Sangli, for the offences punishable under Section 120B, 302, 498A, 201 read with Section 34 of the Indian Penal Code, 1860, seeks to be enlarged on bail.

2. On 23rd September, 2018, the marriage of the Applicant was solemnized with Saylee (the deceased). Few months prior to the occurrence, the Applicant developed infatuation for another teen aged girl. The Applicant started to harass the deceased. With a view to get rid of the deceased, the Applicant allegedly entered into a criminal conspiracy with Ranjit @ Shiva Lal Singh (accused No.2) and Ankit Kumar Vijaypal Singh (accused No.3) and a child in conflict with law, who had come to Atpadi in search of livelihood few days prior to the occurrence. In pursuance of the criminal conspiracy, the Applicant and the co-accused allegedly agreed to commit the murder

of the deceased and the Applicant promised to give the gold marriage string of the deceased to the co-accused, for the same.

3. On 26th September, 2020 at about 1.00 a.m., the Applicant called the deceased near the bathroom. On the pretext of giving her a surprise, on their marriage anniversary, the Applicant wrapped a scarf over the eyes and mouth of the deceased. The co-accused and the child in conflict in law, who were already present thereat, in pursuance of the conspiracy, caught hold of the deceased, gagged her mouth and the Applicant slashed the throat of the deceased and killed her. A farce was sought to be made that the deceased died by suicide.

4. The police visited the scene of occurrence. After noticing the injuries on the person of the deceased and the situation at the spot, it transpired that the deceased met a homicidal death.

5. The first informant – Saurabh Surendra Shinde, the brother of the deceased lodged a report. During the course of investigation, the Applicant came to be arrested and pursuant to the discovery made by the Applicant, the blood stained knife and the clothes, which the Applicant wore at the time of the occurrence, came to be recovered. The co-accused – Ankit Kumar also made discovery leading to the recovery of his blood stained clothes and the marriage string of the deceased.

6. The Applicant has preferred this Application for bail asserting, inter alia, that there is no material to connect the Applicant with the offences. Since the

prosecution case entirely rests on circumstantial evidence, according to the Applicant, prima facie, there is no complete chain of circumstances, which unerringly points to the guilt of the Applicant.

7. I have heard the learned Counsel for the Applicant and the learned APP for the State. With the assistance of the learned Counsel, I have perused the report under Section 173 of the Code of Criminal Procedure, 1973 and the documents annexed with it.

8. At the outset, Mr. Satyavrat Joshi made an endeavour to demonstrate that the case of homicidal death is not, prima facie, made out. Emphasis was sought to be laid on the fact that a blade was allegedly found at the scene of occurrence. The possibility of suicidal death, therefore, cannot be ruled out.

9. The aforesaid submissions do not deserve countenance. In column No.17 of the post mortem report, the Autopsy Surgeon noted the following external injuries :

“1.Incised wound present over anterior aspect of neck horizontally more on left side then the Rt side from midline of neck measuring 13 cm in length, 4.5 cm in width, 4 cm in depth, exposing muscles of neck cutting through major vessels of neck including carotid on left side trachea and oesophagus, showing pinkish froth at cut section of trachea at base of wound.”

2. Stab wound over abdomen 6 in no. in umbilical area 1) 2.5 cm in length x 1 cm in width x 2 cm in depth present 3 cm above umbilicus in midline 2) 2.5 cm in length x 1 cm in width x 2 cm in depth present 6 cm above umbilicus in midline 3) 2 cm in length

x 1 cm width x 2 cm in depth present 2.5 cm left side umbilicus
 4) 2.5 cm in length x 1 cm in width x 2.5 cm in depth present 7
 cm right side the umbilicus 5) 1.5 cm in length x 0.5 cm in width
 x 2.5 cm in depth present 13 cm Rt and above the umbilical 6) 1
 cm in length x 0.5 cm in width present 10 cm above umbilicus
 and 3.5 cm midline from 5th wound.”

10. The observations indicate that dimensions of the first injury on the neck, were such that, prima facie, the injury was homicidal in nature. Secondly, the Autopsy Surgeon noted 6 stab injuries over abdomen. These stab injuries effectively blunt out the submission on behalf of the Applicant that the deceased did not meet homicidal death.

11. The learned Counsel for the Applicant invited the attention of the Court to the statement of the father of the Applicant – Gorakh Chavan. He stated that on the night of the occurrence, the Applicant was not at home. He, his wife and the deceased had a dinner and went to bed at about 10.00 p.m. On the morning of 26th September, 2022, he woke up at about 6.15 a.m. and found the deceased in a pool of blood at the door of the bathroom.

12. Again the observations in the post mortem report, ex-facie, belie the aforesaid claim. The Autopsy Surgeon opined that the contents of the stomach indicated that the deceased had her last meal within six hours of the death.

13. The learned Counsel for the Applicant then submitted that the deceased

might have been done to death by somebody when she went to the bathroom at night. To lend support to this submission, the learned Counsel for the Applicant banked upon the configuration of the house, especially the fact that the bathroom area was accessible from outside. The attendant circumstances, especially the nature of the death which the deceased met, time and place of the occurrence and the recovery of the incriminating articles, including the weapon of assault and the article which the deceased allegedly wore at the time of occurrence, and the blood stained clothes, which the Applicant and the co-accused allegedly wore at the time of the occurrence, indicate, prima facie, nexus between the Applicant and the crime. At this juncture, the fact that the Applicant being the husband of the deceased owes an explanation as to the circumstances of the transaction in which the deceased met death in her matrimonial home at the dead of the night, also deserves to be arrayed against the Applicant.

14. For the foregoing reasons, I am not inclined to exercise the discretion in favour of the Applicant. Hence, the following order :

ORDER

The Application stands rejected.

(N.J.JAMADAR, J.)