

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

BAIL APPLICATION NO. 2795 OF 2022

Vaibhav Govardhan Surwase ...Applicant

Versus

The State of Maharashtra ...Respondent

WITH

BAIL APPLICATION NO. 2811 OF 2022

Hanumant Govardhan Surwase ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr. Aniket Nikam i/b Mr. Amit Icham for the Applicant.

Mr. A. R. Kapadnis, APP for the State.

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CORAM : N.R. BORKAR, J.

DATED : 18 NOVEMBER 2022

P.C. :-

These applications are filed under Section 439 of Code of Criminal Procedure for grant of bail.

2. The applicants came to be arrested in Crime No. 279 of 2022 registered at Tembhurni police station for the offence punishable under Section 302, 201, 120(b), 498(A), 304(B), 323, 504, 506 read with 34 of Indian Penal Code.

3. The deceased was the wife of Hanumant Govardhan Surwase, the applicant in Criminal Bail Application No. 2811 of 2022 and their marriage was solemnized on 01.05.2016. The applicant in Criminal Bail Application No. 2795 of 2022 is the brother of Hanumant Surwase.

4. It is alleged that the applicants and the other co-accused were ill-treating the deceased on the ground that enough dowry was not given at the time of marriage and they were asking the deceased to bring Rs. 2,00,000/- from her parents.

5. On 01.05.2022 the dead body of the deceased was found. Thus initially the crime was registered for the offence punishable under Section 306, 498-A, 323, 504, 506 read with 34 of Indian Penal Code against the applicants and other co-accused.

6. According to the prosecution during the course of the investigation the death of the deceased was found to be homicidal. The charge sheet therefore came to be filed in addition to the above offences, for the offences punishable under Section 302, 304(B) of Indian Penal Code.

7. I have heard the learned counsel for the applicant and the learned APP for the respondent-State.

8. The learned counsel for the applicant submits that on the date of alleged incident of homicidal death both the applicants were not present at village Mitkalwadi. It is submitted that there is no evidence on record except the alleged memorandum statement of the mother of the present applicants that she committed the murder of deceased, pursuant to conspiracy hatched by the present applicants and other co-accused. It is further submitted that considering material on record the possibility of accidental death cannot be ruled out. It is submitted that the further detention of the applicants is not necessary as the investigation is over and charge sheet has been filed.

9. On the other hand the learned APP submits that deceased died within 7 years of marriage. There is material to show that the present applicants were ill-treating the deceased on account of demand of dowry. It is submitted that considering the nature of offence the application be rejected.

10. It appears from the statement of child witness- Shivam Thite that on the day of alleged incident the applicants were not at village Mitkaldi. Prima facie as regards homicidal death there appears to be no material except the memorandum statement of co-accused. Considering these facts and circumstances, I am inclined to release the applicants on bail. Hence, the following order is passed:

- (i) Application is allowed.
- (ii) The applicants shall be released on bail in Crime No. 279 of 2022 registered at Tembhurni police station for the offence punishable under Section 302, 201, 120(b), 498(A), 304(B), 323, 504, 506 read with 34 of Indian Penal Code on furnishing P.R. bond in the sum of Rs.25,000/- each with one or two sureties in the like amount.
- (iii) The applicants shall attend the concerned police station every month on first working Saturday between 11.00 am to 2.00 pm till conclusion of the trial.

(N.R. BORKAR, J.)