

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.4174 OF 2021

Ramesh Ladkya Bhavar .. Applicant

Versus

The State of Maharashtra .. Respondent

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Ms.Shantanu Phanse i/b Mr.Nilesh Navale for the Applicant.

Ms.Anamika Malhotra, A.P.P. for the State/Respondent.

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CORAM: BHARATI DANGRE, J.

DATED : 29th JULY, 2022

P.C:-

1. The applicant remain incarcerated on being arrested in C.R.No.I-131 of 2019 on the basis of the circumstantial evidence, being compiled in the charge-sheet filed against him.

He is accused of the offence punishable under Sections 302 and 376A of the I.P.C. and came to be arrested on 30/09/2019.

2. On the complaint filed by the husband of deceased Preeti, C.R. came to be registered against unknown person. He

narrated that on 15/09/2019, as per her normal routine at around 7.00 a.m., his wife Preeti left for Om Plastic Company, where she was working, but till 8.00 p.m., she did not return to home. As a routine, she was accompanied by several women in the village to the factory, which was the source of livelihood for the family and the company vehicle used to pick-up and drop its employees.

When his wife did not return, he started searching her and made inquiries with her associates, who informed that she had collected the grocery and returned home. At some distance, he could notice some belongings of his wife and, further, at a distance, he noticed his wife lying with an injury on her front temporal region and she seemed to be strangulated by a part of her apparel (saree), which she was wearing. The blood was oozing from her nose and was spread over on her face. She was found to be dead around 9.00 p.m.

3. The postmortem report mention of a ligature mark and cause of death is ascertained as, 'Asphyxia due to strangulation with suspicion of alleged assault of rape'.

This resulted in registration of C.R. by invoking Sections 306 and 376(A) of I.P.C.

4. The applicant came to be arrested on suspicion and on his arrest, a memorandum panchanama under Section 27 was recorded on 04/10/2019, which led to the Investigating Officer to recovery of a shirt with reddish stains and one nose pin of metal, which was found in the shirt pocket. The nose pin has been identified by the husband of the deceased, as belonging to her.

5. Apart from the said evidence, the prosecution rely upon the statement of one Ravindra Bhangare, who states that on 15/09/2019, at around 5 o'clock, the applicant boarded his rickshaw and he noticed that he was drunk and was cautioned to hold himself tight in the rickshaw and he was dropped at around 5.15 p.m. at Saitani bridge. The said witness was acquainted with the applicant, since they are residents of the same village. The CCTV footage from a guesthouse, located near the bus station, records the presence of the applicant at 5.00 p.m.

6. The statements of the associates, who used to accompany deceased Preeti to the factory, are also recorded and in sync, the witnesses have sated that they left the company at 5.45 p.m. and at 7.00 p.m., the vehicle of the company dropped them at Saitani bridge. Thereafter, they went to a grocery

shop, where the deceased purchased some items and at 7.15 p.m., she proceeded ahead towards her house. The other women, who were accompanying her, also followed different paths to return to their respective houses.

On the basis of the aforesaid evidence, the applicant is charge-sheeted for murder of deceased Preeti.

7. The case of the prosecution is based on the circumstantial evidence and the prosecution is attempting to demonstrate the presence of the applicant near the bridge at 5.15 p.m., as an incriminating circumstance and one in the loop, in the chain of circumstances. It could not be understood as to how this fact can be considered as an incriminating circumstance when it is not the case of the prosecution that the deceased was last seen in the company of the applicant, but independently at around 7.15 p.m., she was seen walking out of the grocery shop and it is not the prosecution case that the applicant was seen alongwith her. At around 9.00 p.m., she found to be dead, being strangulated. The nose pin, which has been recovered from the applicant, by it's own cannot be an incriminating circumstance, since there is no special identification on the said nose pin, except that it is a metal pin

and the prosecution allege that the applicant has retained it in his shirt pocket till the time he was arrested.

8. The circumstantial evidence must necessarily establish the chain of circumstances pointing out only to the accused and every other possibility being ruled out and in order to justify the inference of guilt, the inculpatory facts must be incompatible with innocence of accused. The evidence compiled in the charge-sheet falls short of the same. The applicant, therefore, deserves his release on bail.

9. It is made clear that the observations made above are, *prima facie*, in nature and limited to the extent of adjudication of the present application and shall not be construed as binding on the merits of the matter.

Hence, the following order.

: ORDER :

- (a) Application is allowed.
- (b) Applicant -Ramesh Ladkya Bhavar shall be released on bail in connection with C.R.No.I-131 of 2019 registered with Ganeshpuri Police Station, Bhiwandi, District Thane, on furnishing P.R. Bond to the extent of Rs.25,000/- with one or two sureties of the like amount.

(c) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer. The Applicant should not tamper with evidence.

(d) The Applicant shall make mark his attendance in the concerned police station of every Saturday between 10.00 a.m. to 1.00 p.m. till framing of charge.

(SMT. BHARATI DANGRE, J.)