

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

**CRIMINAL BAIL APPLICATION NO.4485 OF 2021**

Vrushali Jagdish Salunke .... Applicant  
Versus  
The State of Maharashtra .... Respondent

Mr.Waqar Nasir Pathan, for the Applicant.

Mr.M. G. Patil, APP for the State/Respondent.

**CORAM : SARANG V. KOTWAL, J.**

**DATE : 24<sup>th</sup> FEBRUARY, 2022**

**P.C. :**

1. The Applicant is seeking her release on bail in connection with C.R.No.162 of 2019 dated 8<sup>th</sup> March, 2022, registered with Kolsheewadi Police Station, District Thane, under section 302 of the Indian Penal Code. The Applicant was arrested on 8<sup>th</sup> March, 2022 and since then she is in custody.

2. Heard Mr.Waqar Nasir Pathan, learned counsel for the Applicant and Mr.M. G. Patil, learned APP for the State.

3. The FIR was lodged on 8<sup>th</sup> March, 2019 by one Kanchan Gokul Salunkhe, who was the younger brother of Jagdish Salunkhe (deceased). The case is that the Applicant had married the deceased against her wish. The informant was staying with the Applicant and

Jagdish. On the date of incident i.e. on 6<sup>th</sup> March, 2019, in the evening, he had gone out for some work. On that day, the Applicant and the deceased were in the house. At 9.50 pm, the Applicant made a phone call to the first informant and asked him to reach home immediately. When the informant reached home, he saw that Jagdish was kept in a rickshaw and the others were taking him to the hospital. In the hospital, Jagdish was declared dead. According to the first informant, there was some strong smell coming from the mouth of the deceased and there was some marks on the throat of the deceased. Therefore, the informant registered the FIR.

4. The Applicant was arrested on 8<sup>th</sup> March, 2019 and since then she is in custody. The investigation is complete and the charge-sheet is already filed.

5. Learned counsel for the Applicant submitted that the Applicant was hardly 20 years of age at the time of incident. He submitted that it was simply not possible for her to commit murder of the deceased. He submitted that the postmortem report shows that the cause of death was due to asphyxia. That means she had strangulated the deceased to death. He submitted that in that case there should be some signs of struggle and some injuries on the body

of the deceased. But all these factors are absent. He submitted that the deceased and the Applicant being together was not unusual since they were husband and wife and were staying together. He further submitted that the material shows that the Applicant was not present in the house and for that he relied on the statement of the neighbour Suradkar.

6. Learned APP opposed this Application. He submitted that it was within the special knowledge of the Applicant to explain as to how the incident had occurred. There is possibility that the deceased was given poison. In the past also the Applicant tried to give poisonous food to the deceased. He submitted that there are indications to show that the Applicant was having close friendship with a third person and that could be the motive. He relied on the writing executed by the Applicant mentioning that inspite of the threat which she had given she was willing to marry the deceased. Learned APP submitted that obviously the marriage was against her wish and that has resulted in the commission of this crime.

7. I have considered these submissions. The postmortem notes show that there was skull fracture and there was abrasion on temporal region 0.3 x 0.2 x 0.2 cm coupled with haemotoma 2 x 0.2

x 1 cm. There was ligature mark 43 x 0.1 cm around neck region. The tongue was bitten in the mouth coupled with bleeding from mouth and nostrils. The cause of the death was mentioned as asphyxia. However, it was also mentioned that the cause of the death was reserved for expert's opinion. Till date, no such opinion is available. The viscera was preserved, though till today there is no further report on viscera.

8. The charge-sheet shows that there was recovery at the instance of the present Applicant i.e. nylon rope and poison bottle which was kept in an interior room of the building which was not in use. That bottle was sent for CA report which shows that the bottle contained poison. However, in the absence of analysis of viscera and any other medical opinion, this theory of poisoning does not find support.

9. There is also skull fracture. Therefore, the question would remain as to whether the Applicant was capable of committing this act. She was only aged 20 years, at the time incident. There was no sign of struggle. Though there are indications from the statement of her friend that she was friendly with others, but even that evidence falls short to establish any extra marital affairs of the

Applicant. The statement of other witness including mother and brother of the deceased show that the Applicant was reluctant to get married with the deceased. There are allegations that in the past, she had given some food to the deceased, he had not consumed that food suspecting that it was mixed with poison. However, these allegations are vague, as even thereafter couple were staying together. In this particular case, no food was found with poison, thus this theory of poisoning is not established.

10. In this context, the most important statement would be that of neighbour Ujwalla Suradkar. Her statement was also recorded under Section 164 of the Cr.PC. She has stated that on 6<sup>th</sup> March, 2019, that is on the date of the incident, at around 9.10 pm she had gone to Applicant's house for asking for some vegetables. The Applicant gave her vegetables from the window and she had not opened the door. The Applicant told her that she was going to the market. About 10 minutes thereafter, she had seen the Applicant was going out of the house. After 15 to 20 minutes, this witness again met the Applicant near her house. At that time, the Applicant asked her whether it was possible that any one could enter the house from the back door and whether she had heard any noise from her house.

When Ujwalla asked her why she was asking that question. The Applicant told her that she kept everything in order in the house and when she came back she found everything scattered. The deceased was seen asleep on the bed. The Applicant told Ujwalla and uncle of the deceased who had reached the spot that the deceased was found asleep and was not getting up. They found that strong odour was coming from the deceased's mouth. The Applicant showed others that there were ligature marks around the neck of the deceased. The neighbours took the deceased to the hospital. But he was declared dead. This statement indicates some important things. Firstly, that for sometime the Applicant was not present in the house. Secondly, the Applicant sought help of the neighbour. She showed ligature marks on the neck of the deceased. She was not there in the house for twenty minutes. There is reasonable possibility that some incident had occurred during that time.

11. Significantly, as mentioned earlier, there were no signs of struggle and there were no injuries. The Applicant herself showed marks on the neck of the deceased. The deceased had suffered skull fracture. The prosecution story is doubtful. There is a reasonable possibility that the Applicant may not have committed this offence.

Of course, this will have to be decided during the trial. The Applicant is a young woman. She is in custody since 8<sup>th</sup> March, 2019. The investigation is already over and the chargesheet is filed. The trial is not likely to commence in near future. Therefore, the Applicant can be granted bail.

12. Hence, the following order :

**ORDER**

- (i) In connection with C.R.No.162 of 2019 registered with Kolsheewadi Police Station, District Thane, the Applicant is directed to be released on bail on her furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) The Application stands disposed of accordingly.

**(SARANG V. KOTWAL, J.)**