

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.69 OF 2022

Ahilyabai w/o Vishnu Kale

Applicant

versus

The State of Maharashtra

Respondent

Ms.Heena Mistry, Advocate for applicant.

Ms.A.A.Palkar, Advocate for respondent.

CORAM : PRAKASH D. NAIK, J.

DATE : 19th October 2022

PC :

1. This is an application for bail in Crime No.I-335 of 2020 registered with Yeola City Police Station, District Nashik for the offences under Sections 302, 314 of Indian Penal Code.

2. The case of prosecution is that the complainant Sangitabai Bhorkade lodged a complaint on 1st August 2020 with Yeola City Police Station alleging that the complainant and applicant-accused are real sisters to each others and the present applicant is maternal aunt of the deceased Shakuntala w/o Abasaheb Sonwane. The said Shakuntala was daughter of Sngitabai Bhorkade i.e. complainant. In the month of December-2019 some quarrels took place in between deceased and her husband. Therefore deceased left the matrimonial house and used to reside at the house of her maternal aunt i.e. applicant. There was marriage ceremony of complainant's daughter-in-law in the month of June-2020. At that time deceased came to her matrimonial house and her husband found she was pregnant. Therefore said fact was confirmed by him through doctor and the doctor stated that she was pregnant for near about five months.

3. Learned advocate for the applicant submits that when her husband inquired with deceased about pregnancy, the deceased stated that she was pregnant from one Sagar who is son of applicant. The complainant asked the accused about the pregnancy and accused got annoyed. On the day of incident on 13th July 2020, the accused was quarreling with sister i.e. complainant on account of making her son responsible for pregnancy of deceased. Under anger, applicant dragged deceased, who was sleeping on the cot, by holding her legs. Deceased fell down on the floor and sustained injury to her head. She was unconscious. The deceased was shifted to hospital by applicant and during the medical treatment Shakuntala died in hospital.

4. Learned advocate for applicant submitted that the applicant is in custody from 1st August 2020. Investigation is completed and charge sheet is filed. The applicant has been falsely implicated in this case. The documents on record and medical case papers are contrary to FIR and investigation papers. There is delay in lodging the FIR. Medical case papers indicate that victim had fallen in bath room. It is contrary to the allegations in the FIR. Assuming the prosecution case to be true, the offence u/s.302 of IPC would not be made out. The applicant is lady. She is in custody for considerable period of time.

5. Learned APP submitted that motive has been attributed to the applicant for committing offence. The victim has died on the next day of incident.

6. From the documents on record it is apparent that the allegations against applicant is that on account of some statement made by the deceased against son of the applicant, she approached the deceased who was sleeping on the bed. She was pulled down and her head was allegedly hit the floor. When the victim was taken for treatment there are nothing which indicate that she had slept in the bath room and suffered injuries. There has been delay in lodging the FIR. The applicant is in custody for a period of about two years. Prima facie, assuming the allegations in the FIR to be true, the applicant cannot be attributed offence of committing murder. Considering the factual aspects, bail can be granted to the applicant.

ORDER

- (i) Bail Application is allowed and disposed off;
- (ii) The applicant is directed to be released on bail in connection with C.R No. I-335 of 2020 registered with Yeola City Police Station, District Nashik, on executing PR bond in the sum of Rs.20,000/- with one or more sureties in the like amount;
- (iii) The applicant is permitted to furnish cash bail in the sum of Rs.20,000/- for eight weeks in lieu of sureties;
- (iv) The applicant shall report Yeola City Police Station once in three months on first Saturday of the month between 11 am and 1 pm till further orders;
- (v) The applicant shall not tamper with evidence;
- (vi) The applicant shall attend Trial Court on dates of hearing regularly, unless exempted by Trial Court for some reason.

(PRAKASH D. NAIK, J.)