

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.101 OF 2023

Akshay Gorakh Chavan

...Applicant

vs.

The State of Maharashtra

...Respondent

Mr. Siddhesh S. Ghodke, for the Applicant.

Ms. P.N. Dhabolkar, APP for the State.

CORAM : N. J. JAMADAR, J.

DATE : FEBRUARY 16, 2023

P.C.:

1. The applicant who is arraigned in C.R.No. 292 of 2020 registered with Atpadi police station, Sangli for the offences punishable under sections 302, 498-A, 120-B, 201 read with 34 of Indian penal Code, 1860, has preferred this second application to enlarge him on bail.

2. The applicant avers since the rejection of the first application by an order dated 22nd June, 2022 there has been a significant change in the circumstances. One of the co-accused Ranjit @ Shiva has been released on bail by this Court by an order dated 20th November, 2022 in Criminal Bail Application No. 2944 of 2022.

3. Mr. Ghodke, learned counsel for the applicant, submitted that the release of the co-accused, with whom the applicant allegedly hatched criminal conspiracy to commit the murder of the deceased, his wife, entitles the applicant to be released on bail.

4. While rejecting the Bail Application No. 3939 of 2021 by an order dated 22nd June, 2022, I had considered the submissions canvassed on behalf of the applicant. Having regard to the circumstances in which the deceased met an unnatural death whilst she was in the custody of the applicant, I had declined to exercise the discretion in favour of the applicant.

5. The observations in paragraphs 10 to 13 of the said order read as under:-

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.

6. I am afraid in the backdrop of the aforesaid nature of the accusation and the reasons which weighed with this Court in rejecting the first bail application, the applicant would be justified in claiming parity. The co-accused who is ordered to be released on bail had allegedly come to Atpadi in search of livelihood few days prior to the occurrence and the applicant had made him to join in the conspiracy by promising to give the gold marriage string of the deceased. The case of the co-accused, thus stands on a completely different footing. In the circumstance, the applicant is not entitled to seek bail on the ground of parity.

Hence, the following order.

ORDER

The application stands rejected.

(N. J. JAMADAR, J.)