

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

BAIL APPLICATION NO. 3725 OF 2022

Vishal Agyaprasad Mishra

..Applicant

vs.

The State of Maharashtra

...Respondent

**WITH
INTERIM APPLICATION NO. 324 OF 2023
IN
BAIL APPLICATION NO. 3725 OF 2022**

Kanti Mahendra Pandey

..Intervenor

In the matter between

Vishal Agyaprasad Mishra

..Applicant

vs.

The State of Maharashtra

...Respondent

Mr.Shekhar S. Bhise – Advocate for Applicant.

Mr.S.R.Agarkar – APP for the Respondent – State.

Mr.Mahesh Rajpopat – Advocate for Intervenor.

R.D.Narsinghe – Kapurbawdi Police Station – Thane City.

CORAM : S. M. MODAK, J.

DATED : 14TH JUNE 2023

P.C. :

1. Heard learned Advocate for the Applicant-Accused, learned Advocate for the First-Informant and learned APP.

2. When this Court has heard the matter on 26th April, 2023, liberty was given to the First-Informant to produce the medical

papers from Desai Hospital. Even the Investigating Agency was asked to verify those papers. Today, learned Advocate for the First-Informant produced certain case papers and summary and receipt issued by the Hospital of Bombay Municipal Corporation.

3. Learned Advocate for the First-Informant read over summary. According to him, it mentions about the internal examination of patient – Pooja Pandey. It is on the basis of MRI of brain. It is taken on record and marked as Annexure-X.

4. He also produced on record in all four photographs showing that there are certain injuries on body of the deceased. Even he has invited my attention to the injuries mentioned in column no.17 of the *post mortem report* (Page No.95). It mentions about 9 contusions. He submitted that the deceased was dropped at her parents house in an inhuman condition.

5. As against this, learned Advocate Shri.Bhise submitted that in fact, there are no specific allegations against the present Applicant – Husband. There are only general allegations. He invited my attention to certain medical papers (Page No.18 onwards of the Bail Application).

6. When learned APP was asked to ascertain the medical papers

of the Desai Hospital, he has shown to me one letter written by the doctors attached to the department of Forensic Medicine Nair Hospital addressed to the Kapurbawadi Police Station dated 21st September, 2022. He was asked to ascertain the medical papers because this Court wants to ascertain what was the medical condition of the patient when she was admitted in Desai Hospital.

7. The doctors attached to the Nair Hospital in the letter dated 21/09/2022 have opined that the injuries were fresh and they might have been caused due to ‘restraining the patient during the episode of seizure’. This was when she was admitted in the hospital. The doctors have further opined that these injuries were not sufficient to cause death in their ordinary course.

8. Learned Advocate for First-Informant invited my attention to Page No.113 of the paper annexed to the Intervention Application. While narrating the history, the doctors have mentioned that there is *‘history of assault by known person two days back leading to head trauma injury and injury to left hand and swelling over the head’.* Learned Advocate Shri.Bhise submitted that if the injuries are caused two days back, already the deceased was handed over to her parents earlier.

9. When the charge-sheet papers are perused, what has transpired is that the marriage was performed on 21st May, 2021 in between the deceased Pooja Pandey and the present Applicant. The allegation in the FIR filed by Kanti Mahendra Pandey who is mother of the deceased suggest that she was being harassed in between 21st May, 2021 upto 14th July, 2021 on account of dowry and on account that she do not know how to do household work.

10. Statements were recorded of the relatives of the deceased which includes Mahendra who is father of the deceased, Satish who is the brother of the deceased, one Girijashankar Radhikaprasad Mishra who has seen the horoscope of both the spouses prior to the marriage.

11. Pooja informed to her mother that she was beaten by her mother-in-law on 16th June, 2022 and Vikas who is brother-in-law and her sister-in-law and also used to abuse her. On 9th July, 2022, Agyaprasad who is the father-in-law of the deceased has taken the deceased to Shivaji Hospital – Kalwa and on the same date, said Agyaprasad and one Vishal have dropped Pooja on a road which is near to the house of Mahendra Pandey – father of deceased Pooja.

12. The statement further reveals that on 10th July, 2022, her

relatives took Pooja to Desai Hospital – Malad. Even intimation is given to Dindoshi Police Station. The statement of Mahendra was also recorded. The deceased Pooja was treated from 10th July, 2022 up till 12th July, 2022. in Desai Hospital–Malad–Mumbai. The doctors have advised that further treatment is required and hence, Pooja was referred to Nair Hospital. While undergoing the treatment, she expired in the intervening night of 13th July, 2022 and 14th July, 2022.

13. The doctors have reserved an opinion as to cause of death *‘after histopathological examination’* will be over. Still, it is awaited. On this background, an offence came to be registered with Police Station - Kapurbawadi on 2nd August, 2022 on the complaint of Kanti Mahendra Pandey who is mother of deceased - Pooja. It is registered under Sections 498-A, 304-B, 406 read with 34 of IPC.

14. Now, question is whether the Applicant needs to be detained hereinafter. I am inclined to grant him bail. Because, I do not think that his further detention is required, particularly in view of the fact that charge-sheet is filed. All the papers referred above, do indicate that Pooja was suffering from some health problem and she was also being treated. There are papers which are relied upon on behalf of

the Applicant. Even though the 'post mortem report' suggest that there are in all 9 contusions, the doctors attached to Nair Hospital have opined that death cannot be caused due to those injuries and even they have opined that these injuries may be possible during her hospital stay. Ultimately the trial Court will decide how these injuries were caused after evidence is recorded. But prima facie, it can be said that the doctors attached to Nair Hospital have opined about some reason which now can be considered in favour of the Applicant.

15. Considering the overall allegations, I do not think that further detention of the Applicant is justified. So, no purpose will be served by detaining him behind jail. Hence, I am inclined to grant bail. Hence, following order :-

O R D E R

- (i) Application is allowed.
- (ii) Applicant Vishal Agyaprasad Mishra be released on bail in connection with C.R.No.261/2022 registered with Kapurbawadi Police Station–Thane City for the offences punishable under Sections 498-A, 304-B, 406 read with 34 of IPC, on furnishing personal bond and surety bond of Rs.50,000/-.
- (iii) Applicant not to threaten the Prosecution witnesses

or to allure them in any manner.

- (iv) Applicant to attend the trial Court punctually.
- (v) In case of breach of any of the conditions, the bail of the Applicant is liable to be cancelled after notice.

16. These are my prima facie observations. Let the learned trial Court need not be influenced by them.

17. Application is disposed of in the aforesaid terms.

18. In view of the above, Interim Application is also disposed of.

19. All the parties to act on an authenticated copy of this order.

[S. M. MODAK, J.]