

VRJ

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

BAIL APPLICATION NO.3898 OF 2022

Vaibhav Bhagwan Lamkane	... Applicant
V/s.	
The State of Maharashtra	... Respondent

Mr. Sudeep Pasbola with Mr. Ayush Pasbola and Mr. Siddharth Mehta for the applicant.

Mr. Amit A. Palkar, APP for the respondent/State.

Mr. Gaikwad, API, Dehuroad Police Station is present.

CORAM : AMIT BORKAR, J.

DATED : JUNE 23, 2023

P.C.:

1. This is an application under section 439 of the Criminal Procedure Code, 1973 for offence under section 302 of the Indian Penal Code, 1860, registered with Dehuroad Police Station.

2. According to the prosecution, informant's daughter was married with the applicant. On 27th May 2021, informant received a call that Pooja suffered heart attack. The call was made by the applicant. The informant, therefore, reached the at the spot of incident. On inquiry, informant was told that the deceased was lying unconscious and, therefore, police complaint was made. The police arrived at the spot and after medical examination informant's daughter was declared dead. Postmortem report

revealed that the death was due to strangulation. The informant, therefore, lodged report on 27th May 2021.

3. The applicant was arrested on 27th May 2021. After completion of investigation the investigating agency filed charge sheet.

4. The applicant, therefore, filed an application under section 439 of the Criminal Procedure Code, 1973 before the Sessions Judge, which came to be rejected by order dated 28th January 2022.

5. Learned advocate for the applicant submitted that according to the prosecution, the case is based on circumstantial evidence. The chain of circumstantial circumstances is not complete. Assuming all circumstances to be correct, it does not lead to only conclusion that the applicant had killed the deceased. The circumstances relied by the prosecution do not inspire confidence. Even if one of the circumstance is not believed, the applicant is entitled to benefit of doubt. Therefore, the applicant deserves to be released on bail.

6. On perusal of the charge sheet, it prima facie appears that the witnesses had seen the applicant on the day of death of the deceased. It also reveals that the applicant was only person present in the house when the deceased was found dead. The cause of death is Asphyxia due to constriction of neck. The postmortem report shows fourteen injuries on person of deceased having abrasion within 48 to 72 hours. Another circumstance which is borne out from the charge sheet is that the informant received a

call from the applicant where he disclosed heart attack as the reason of death of the deceased which is subsequently found to be false.

7. On overall perusal of the material on record and the circumstances referred above, prima facie case is made out against the applicant. Therefore, the applicant does not deserve to be released on bail under section 439 of the Criminal Procedure Code, 1973.

8. The bail application is, therefore, dismissed.

(AMIT BORKAR, J.)