



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

908 ANTICIPATORY BAIL APPLICATION NO. 843 OF 2024

Amrin Salma Shaikh Alim

..APPLICANT

-VERSUS-

1. State of Maharashtra
2. The Superintendent of Police

..RESPONDENTS

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Advocate for Applicant : Mr.S.J. Salunke

APP for Respondent/State: Mr.P.K. Lakhotiya

Advocate for assisting P.P. : Ms.Siddhi Kothari h/f Mr.S.G. Ladda

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CORAM : **SHIVKUMAR DIGE, J.**

DATE : 4th July, 2024.

P.C.:

1. The applicant apprehends arrest in connection with FIR No.413 of 2023 registered with Ambajogai (City) Police Station, Dist. Beed for the offences punishable under sections 302, 120-B, 201 read with 34 of the Indian Penal Code (For short, "IPC").

2. It is the prosecution's case that the informant is maternal uncle of the applicant. Deceased Jakia Begum was sister of the informant. She was residing with her daughter i.e. the applicant due to matrimonial discord with her husband (accused no.2). It is alleged that on 22nd October, 2023, Jakia Begum was found dead. On the next day in the presence of the informant and other relatives, the funeral of Jakia Begum was performed. It is alleged that during last bath of pre-funeral, niece of the informant Shabana noticed injuries on forehead

and ligature marks on the neck of deceased. Therefore, she snapped the photographs of the said injuries in her mobile handset. Thereafter, the last rites were performed. It is alleged that after death of Jakia Begum one diary was found in her room. In the said diary, Jakia Begum has written that she was harassed by the applicant and co-accused her husband. Therefore, the complaint was filed against the applicant and her husband. After complaint dead body of the deceased was exhumed, postmortem of dead body was done, in postmortem report cause of death is given "evidence of head injury in the form of subarachnoid hemorrhage and under scalp contusion with cerebral edema, however, final opinion pending for accessory examination report." It is alleged that the applicant, her husband and husband of deceased hatched conspiracy and committed murder of the deceased by throttling and by hitting on her head with blunt object.

3. It is contention of the learned counsel for the applicant that the applicant has been falsely implicated in this case. The learned counsel further submitted that the alleged diary written by the deceased Jakia Begum is recovered after two days of the incident. It is planted diary as Jakia Begum used to sign in Urdu whereas in said diary her signature is in Hindi. There is no reason to the applicant to harass her mother. The learned counsel further submitted that on the complaint of the informant, the dead body of Jakia was exhumed and her postmortem

is done. In the postmortem report no external injuries are found on her body. The learned counsel further submitted that this Court has released two co-accused on regular bail. While allowing the bail application this Court (Coram : Sanjay A. Deshmukh, J.) has observed that, it appears that death of the deceased is not homicidal. This bail order is confirmed by Hon'ble Apex Court. Learned counsel further submitted that her death may have been caused because of natural cause as the deceased was suffering from blood pressure and other various ailments. She had suffered trauma due to which her death is caused, but due to family dispute the applicant has been implicated in this case, her custodial interrogation is not required, hence requested to allow the application.

4. It is the contention of the learned APP along with learned counsel for assist to P.P. that the applicant along with co-accused would harass the deceased. She has mentioned all these incidents in her daily diary. The learned APP further submitted that deceased had no reason to write false incident against the applicant. The learned counsel further submitted that the cause of death of deceased is death "due to head injury in the form of subarachnoid haemorrhage and underscalp contusion with histopathological evidence of atherosclerosis of left anterior descending artery". The said injury was caused due to hitting by any blunt object on her head. All the injuries

were antemortem injuries. The death of the deceased is homicidal death. The learned APP further submitted that charge of conspiracy is levelled against the applicant. Custodial interrogation of the applicant is required to investigate where conspiracy is hatched and to recover the weapon used in crime. Moreover deceased was lastly residing with applicant and death is caused in house of the applicant, hence requested to reject the application.

5. I have heard all the learned counsel. Perused the F.I.R. and police papers produced on record.

6. In the postmortem report of the deceased no external injuries found on her body. Though it is alleged in the F.I.R. that some ligature marks were noticed on the neck of the deceased and the deceased was throttled and her head was hit by hard object, but no sign of throttling or hitting of hard object on head of the deceased found in postmortem report. This Court (Coram : Sanjay A. Deshmukh, J.) while passing the order in Bail Application of co-accused has observed that in absence of any injury to scalp and skull of the deceased, is not sufficient to infer that it is homicidal death. The said bail order was challenged in the Hon'ble Apex Court and it is confirmed. In my view no external injuries were found on the body of the deceased, in the absence of any external injury, it can not be said that it is homicidal

death. To prove the cause of death evidence of medical expert is required. Moreover, funeral of the deceased was done in presence of the informant and his brothers. The applicant and her husband immediately informed about the death of deceased to the family members though it is alleged that some injuries were noticed on neck and forehead of the deceased but no immediate complaint was lodged nor postmortem report supports this contention. It is alleged that diary of deceased has been found. In the said diary, it is mentioned that the applicant and her husband was harassing her. In my view, it does not appear from police papers that in her life time, the deceased had complained about harassment by the applicant and her husband. Whether hand writing in diary is of the deceased or not is part of trial. All the incriminating material have been seized by the police. It is the contention of the learned APP that to recover the weapon used in crime and to know about the place of conspiracy custody of the applicant is required. In my view, other two co-accused have been arrested by the police. One of them is husband of the applicant, he and other co-accused were remanded for police custody, nothing was revealed or recovered from them when they were in police custody. They have been released on regular bail. Investigation is almost completed. Considering these aspects, custody of the applicant is not required and I pass the following order :-

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest of the applicant in connection with FIR No.413 of 2023 registered with Ambajogai (City) Police Station, Dist. Beed for the offences punishable under sections 302, 120-B, 201 read with 34 of the Indian Penal Code, the applicant be released on executing personal bond in the sum of Rs.15,000/- with one surety of the like amount, on the following conditions :-
 - (a) the applicant shall attend the concerned police station as and when required by the Investigating Officer.

[SHIVKUMAR DIGE, J.]

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