



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 912 OF 2024

1. Shivkanya Samadhan Giri
2. Sarla Narayan Giri ...Appellants

Versus

The State of Maharashtra & Ors ...Respondents

WITH
CRIMINAL APPEAL NO. 976 OF 2024

Samadhan Gangadhar Giri ...Appellant

Versus

The State of Maharashtra & Anr ...Respondents

- Mr. A. C. Deshpande, Advocate for the Appellants
- Mr. S. B. Jadhav, APP for the Respondent/State
- Mr. M. M. Parghane, Advocate for the Informant

CORAM : R.M. JOSHI, J
DATE : DECEMBER 19, 2024

COMMON ORDER :

1. These Appeals are filed being aggrieved by the rejection of the Anticipatory Bail Applications by learned Special Court. Appellants are apprehending arrest in connection with Crime No. 0703/2024 registered with M.I.D.C. Waluj Police Station, Dist. Aurangabad for the offences punishable under Sections 302, 201 read with Section 34 of the Indian Penal Code

and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. First information report indicates that Informant Pandurang received phone call at about 4 pm on 25.06.2024 from his house from mobile phone no. 7498069362. When he picked up the call, no one spoke from the other side, however, he heard the noise of TV. He, therefore, disconnected the call and redialed the number but no one picked up the phone. He along with his friend Uddhav came to the house. When he entered the house, he found his son sleeping on sofa and daughter sleeping on the floor. He wake up son and asked him as to who had called him. When he denied to have called him, Informant tried to wake up his daughter. In spite of his attempts to woke up her up and when she did not wake up, she was taken to the hospital in the vehicle of Samadhan, one of the accused. She was brought to the GHATI wherein she was declared dead. Samadhan was not satisfied with the said opinion, therefore, they took her to MGM Hospital. However, doctors therein also declared her dead. It is also alleged that thereafter his wife came along with

Samadhan and co-accused. It is claimed that mental state of his wife was not proper at that time. Samadhan without informing anyone nor even asking for the keys of the lock of the house, broke it open. It is stated that they entered the house along with the wife of the Informant and they brought the articles from the house and kept them outside. It is claimed by the Informant that by doing that they destructed the evidence of the crime.

3. Learned Counsel for the Appellants submits that the incident in question has occurred on 25.06.2024, the report of the same is lodged on 05.08.2024. It is submitted by him that this is not the case wherein Appellants had any motive to commit murder of the deceased. He further pointed out that the house of the Informant was entered into by the Appellants along with wife of the Informant and as such, no mala fides can be attributed to them. It is submitted that in any case the offence would attract to the present Appellants is under Section 201 of the IPC and for which their pre-arrest bail cannot be rejected.

4. Learned APP and learned Counsel for the

Informant opposed the Appeals by contending that there is evidence to indicate that the deceased died homicidal death. She died due to asphyxia due to compression of neck. It is submitted that there was no reason for the accused Samadhan and other accused to enter house of the Informant by breaking open the lock when the keys of the said lock was available with the wife of the Informant. This, according to them, indicates the culpability of the Appellants in this crime.

5. *Prima facie* material on record indicates that the death of the daughter of the Informant is homicidal. However, question arises as to whether there is any *prima facie* evidence on record to indicate involvement of the Appellants in the said crime of murder. There is no allegation against them that they were concerned with the actual incident. What is alleged is that they caused entry in the house of the Informant by breaking open the lock. If it is the case of the prosecution that the wife of the Informant was not in proper state of mind, this Court finds substance in the contention of the learned Counsel for the Appellants that owing to

the disturbed state of mind, there is possibility that she had not provided the keys of the lock and, therefore, by her consent the lock was broke open. Admittedly, wife of the Informant was present all throughout. This fact was known to the Informant on the date of the incident itself, however, there is no report lodged immediately. This Court also finds substance in the contention of the learned Counsel for the Appellants that at the most offence under Section 201 of the IPC could get attracted against Appellants.

6. Having regard to these facts, there is no reason for rejection of the Appeals. In the result, both Appeals are allowed by confirming interim orders dated 08.10.2024 & 25.10.2024.

(R.M. JOSHI, J.)