

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 605 OF 2024

YUGANDHARA
SHARAD
PATIL

Digitally signed
by
YUGANDHARA
SHARAD PATIL
Date:
2024.03.06
15:34:01 +0530

Sonali Sandip Tuplondhe

.... Applicant

Versus

The State of Maharashtra

.... Respondent

Mr.Chetan Deshmukh (through VC), for the applicant.

Ms. Rajeshree V. Newton, APP for the State/Respondent.

CORAM :SARANG V. KOTWAL, J.

DATE : 5th MARCH, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R. No. 333 of 2023 registered at Tryambakeshwar Police Station, Nashik, on 28/12/2023 under section 302 r/w 34 of the Indian Penal Code.

2. Heard Mr. Deshmukh, learned counsel for the Applicant and Ms. Newton, learned APP for the State.

3. The FIR is lodged by one Sahebrao Pagar. He was paternal uncle of the deceased Jyoti. She got married with the Applicant's brother on 30/06/2023. For about one month there was peaceful cohabitation. After that Jyoti had visited her parents house. At that time, she complained that her husband was harassing her as he was not given a gold ring during the wedding. The informant and his brother, i.e. Jyoti's father went to her husband's house and had discussion with his family. They promised to give gold ring whenever it was possible. In that night Jyoti called and told him that as they had gone to her matrimonial house, her husband had abused and assaulted her. The informant borrowed money and gave cash of Rs. 25,000/- to Jyoti's husband. She used to call him regularly and used to tell him that her mother-in-law, the present Applicant and the father-in-law also consistently harassed her for not getting money from her parents. After that, Jyoti became pregnant. On 27/12/2023, at about 5.30 p.m., his nephew Sagar called and told him that Jyoti had called Sagar and had told him that her husband, the Applicant, mother-in-law and father-in-law had assaulted her. Sagar and Jyoti's

father went to Tryambakeshwar. In the meantime, the informant received a phone call from Sagar. The informant was asked to go to Tryambakeshwar where Jyoti was admitted. The informant went to Government dispensary at Tryambakeshwar. Jyoti told him that on that day in the morning, between 10.00 a.m. to 11.00 a.m. she was held by her mother in law, father-in-law and the present Applicant. Her husband Rohit assaulted her on her stomach. He kicked her on the back and then banged her head on the wall. All of them left her alone in the house and went away. Because of that assault, she had suffered injuries to her head and stomach. The doctors at Tryambakeshwar advised them to take Jyoti to Nashik Civil Hospital. She was taken there. In the early hours of 28/ 12/2023, Jyoti succumbed to her injuries. On these allegations, the FIR is lodged.

4. Learned counsel for the Applicant submitted that there were no external injuries on the dead body. He submitted that Jyoti was suffering from brain disease and the death is result of that disease. He submitted that the the Applicant was married and

she was residing at about 20 kms away from the matrimonial house of the deceased Jyoti. Her family members can state about her presence in their house at the time of the incident.

5. Learned APP produced investigation papers before me. She submitted that there are witnesses before whom Jyoti had given oral dying declaration. The cause of death is because of brain haemorrhage. There is sufficient and direct material against the Applicant. Therefore, considering the gravity of the offence, anticipatory bail cannot be granted to the present Applicant.

6. I have considered these submissions. The post mortem notes mentioned that there was no surface injury but there was subarachnoid haemorrhage present over cerebral hemisphere as red thin film. The cause of death was “ death due to intracranial haemorrhage ”. Therefore though the surface injury was not seen, this brain haemorrhage is directly corresponding to the allegations that Jyoti’s head was banged against a wall.

7. At the time of death, the deceased was pregnant for about 6 to 8 weeks. There are statements of witnesses who had taken the deceased to dispensary. Sagar Pagare was her brother. He has stated that on 27/12/2023 at about 4.00 p.m. he received a call from his sister Jyoti on somebody else's phone. She told Sagar that her mother-in-law, father-in-law and the present Applicant had held her and her husband had assaulted her. Her husband had banged her head against a wall and that she was in great pain. This witness and his father went to Jyoti's house. At that time, his maternal uncle and aunt had already reached Jyoti's house. They immediately took her to Tryambakeshwar Government dispensary and then she was taken to Civil Hospital, Nashik but in the early hours on 28/12/2023 she died during the treatment. Similar statements are given by Jyoti's maternal uncle Gautam and maternal aunt Alka. They had narrated about the said dying declaration implicating other accused as well as the present Applicant. There is statement of one Sanjana. She has stated that Jyoti had taken her phone at about 4.00 p.m. on 27/12/2023. From that phone Jyoti had called her brother Sagar. Therefore, all

these statements are consistent and they narrate the complete story showing as to how the accused including the present Applicant had caused death of the deceased. Considering the gravity of the offence and the available material, no case for protection under section 438 of Cr.P.C. is made out. The application is rejected.

(SARANG V. KOTWAL, J.)