

Sayali Upasani

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

BAIL APPLICATION NO.- 1148 OF 2024

Ravi Poomni

... Applicant

Vs.

The State of Maharashtra

...Respondent

**SAYALI
DEEPAK
UPASANI**

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SAYALI DEEPAK
UPASANI
Date: 2024.04.24
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Mr. Murtaja Najmi with Ashma Ashrafi and Jigar Agarwal, for Applicant.

Ms. Supriya Kak, APP for State/Respondent.

CORAM:- N. J. JAMADAR, J.

DATED:- 19th APRIL, 2024.

ORDER:-

- 1) The applicant, who is arraigned in CR No. 458 of 2022 for matricide has preferred this application to enlarge him on bail.
- 2) The applicant was residing along with Saroja, his mother in Room No. 23, third floor, Prabhuram Apartment, Hanuman Nagar, Kalyan (E). The applicant had given in to the vice of consuming liquor. Pushpalata Pumani, the first informant, is the sister of the applicant.

3) On 5th September, 2022, at 1.53 am, the applicant had allegedly called the first informant and informed her that their mother (the deceased) had assaulted him and asked the first informant to rush to his home immediately. As it was the dead of night, the first informant reached the house of the deceased on the morning. The applicant opened the door and collapsed. He was drenched in blood. The deceased was hanging to the ceiling fan. The applicant allegedly informed the first informant that the deceased had assaulted him by means of a hammer. The first informant lodged FIR to the effect that on account of the frequent quarrels by the applicant with the deceased under the influence of liquor, the deceased died by suicide.

4) The applicant came to be arrested. Post completion of investigation, charge sheet came to be lodged for the offences punishable under Sections 302 and 201 of the Indian Penal Code, 1860.

5) Mr. Murtaja Najmi, the learned Counsel for the applicant, submitted that the deceased had assaulted the applicant, and as the applicant fell unconscious, the deceased probably thought that the applicant had passed away and, thus, the deceased died by suicide by hanging herself. Mr. Najmi urged that the prosecution case that the deceased died on account of strangulation is demonstrably incorrect. Mr. Najmi submitted that attributes which are often associated with

death by strangulation are conspicuous by their absence and instead, if the statement of the first informant is considered in the light of the observations of the Autopsy Surgeon in the PM report, an inference becomes irresistible that the deceased met a suicidal death by hanging.

6) Mr. Najmi placed reliance on decisions of this Court in the cases of **Bhagwat K. Masram Vs. State of Maharashtra¹** and **Netaji Shivram Chougale Vs. State of Maharashtra²** to buttress the submission that the death was by hanging and not by strangulation.

7) Ms. Supriya Kak, the learned APP stoutly opposed the prayer for bail. It was submitted that the material on record would indicate that the applicant had strangled the deceased under the influence of liquor and to show that it was a case of suicidal hanging a farce of injuries on the person of the applicant was made. Taking the Court through the observations in column 17 of the PM report, Ms. Kak submitted that the Autopsy Surgeon had noted that there were pressure abrasions and ligature marks completely encircling the neck which are suggestive of strangulation. Ms. Kak would urge that the since the applicant was the only person, apart from the deceased in the said premises, no other conclusion than that of the applicant being the author of the homicidal death can be drawn.

1 2007 (6) AIR Bom R 548

2 2013 (4) ABR 1402

8) I have perused the report under Section 173 of the Code of Criminal Procedure, 1973 and the documents annexed with it. Evidently, the applicant and the deceased were the only inhabitants of the room in which the incident occurred in the night intervening 4th and 5th September, 2022. The first person to have witnessed the situation at the house of the applicant was his sister – Pushpalata, the first informant.

9) It is necessary to note that Pushpalata claimed that fed up with the frequent quarrels which the applicant had with the deceased, under the influence of liquor, the deceased died by suicide and she did not suspect any foul play. The reliance of Mr. Najmi on the FIR and the supplementary statement of the Pushpalata is, therefore, required to be considered albeit, prima facie, keeping the aforesaid facts and relationship in view.

10) The thrust of the submission of Mr. Najmi was that when the first informant visited the house of the applicant at 7.15 in the morning, the first informant found bleeding injuries on the head of the applicant and his clothes were drenched in blood. Thus, the version of the applicant, according to Mr. Najmi, gains credence.

11) The injury certificate of the applicant issued by Bai Rukminibai Hospital, Kalyan indicates that there were CLW over the head of the applicant. The Medical Officer had designated the injuries as simple. The

applicant had narrated the history that the deceased had assaulted him by means of hard object (Hammer) at 1.30 am.

12) The time lag between the alleged assault and the visit of the first informant to the house of the applicant, in the facts of the case, assumes significance. There is prima facie material to show that the applicant had called Pushpalata on the night of the occurrence at 2 about 2.00 am and informed her that the deceased had assaulted him. Prima facie, it appears, the applicant did not inform the first informant that the deceased had hanged herself till the first informant visited the house of the applicant at about 7.00 am.

13) It is in the context of the aforesaid facts, the opinion of the Autopsy Surgeon deserves consideration. The Autopsy Surgeon clearly opined that the probable cause of death was strangulation.

14) I have carefully perused the nature of the injuries noted by the Autopsy Surgeon in column No. 17. Two injuries, namely, the pressure abrasions in the form of a ligature mark were found around the neck. The Autopsy Surgeon further opined that the Hemorrhage was present in the superficial muscles of the neck on the right side. Haemorrhage was present in suprahyoid muscles and infrahyoid muscles. There was no fracture of the cricoid laryngeal cartilages and tracheal rings. Infiltration of blood along the fracture margins was present.

15) At this stage, the endeavour of Mr Najmi to draw out the distinction between death by hanging and strangulation with reference to the comparison given in Modi's Medical Jurisprudence and by placing reliance on the judgments in the cases of **Bhagwat K. Masram** and **Netaji Shivram Chougale** (supra) does not merit countenance. The Division Bench had enunciated the position in law after advertent to the evidence adduced by the parties. On the basis of the comparative features alone, at this stage, it would be rather difficult to draw an inference that it was not a case of strangulation as the ligature marks were present around the neck and there was an injury to the muscles of the neck. Thus, I find it rather difficult to accede to the submission that the probable cause of death given by the Autopsy Surgeon is not prima facie borne out by the entries made against column Nos. 17, 20 and 21 of the PM report.

16) In the totality of the circumstances, especially the nature of the occurrence, the absence of a third person, in the house where the deceased met the death and the PM report which categorically records that the probable cause of death was strangulation, I am not inclined to exercise discretion in favour of the applicant.

17) Hence, the following order:-

: ORDER :

- (i) The application stands rejected.

(ii) By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of the entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant and the trial Court shall not be influenced by any of the observations made hereinabove.

Application stands disposed

[N. J. JAMADAR, J.]