

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1764 OF 2023

Mehandi Hasan Musrim Ansari ...Applicant

vs.

The State of Maharashtra ...Respondent

Mr. Ashutosh Kale i/b. Mr. Rahul Rathod, for the Applicant.

Mr. S.R. Agarkar, APP, for the Respondent/State.

CORAM : N. J. JAMADAR, J.

DATE : APRIL 08, 2024

P.C.:

1. Heard the learned counsel for the applicant and the learned APP for the State.

2. The applicant, who is arraigned in C.R. No. 620 of 2022 registered with Vasai Road Railway police station for offence punishable under section 302 of Indian Penal Code, 1860, seeks to be enlarged on bail.

3. Nurul Nisha (the deceased) was the wife of the applicant. They were residing at Bhiwandi along with their children. On 21st August, 2022 they had come to Vasai Road Railway station along with their children. At about 4.30 pm, the applicant approached Ramphal Singh (API) with a request to persuade the deceased to accompany the applicant to their home at Bhiwandi. Ramphal Singh tried to persuade the deceased. However, the deceased declined to accompany the applicant as the applicant suspected her fidelity,

raked up quarrels with her and beat her on the said count. The applicant, deceased and their children stayed at Vasai Road Railway station premises. On the night intervening 21st and 22nd August, 2022 at about 4.06 am the applicant allegedly pushed the deceased from the platform on the railway track as Awadh Express approached. The deceased suffered crush injuries. Eventually the deceased succumbed to those injuries.

4. Mr. Kale, the learned counsel for the applicant, submitted that the applicant has been falsely implicated. There is no material to indicate that the applicant had pushed the deceased on the track. It was submitted that the incident had occurred at about 4.06 am. There was no eye witness to the alleged occurrence. The statement of Loco-pilot relied upon by the prosecution in support of the indictment does not advance the cause of the prosecution as the said witness had no opportunity to notice the alleged act of pushing of the deceased by the applicant.

5. In opposition to this, the learned APP submitted that there is overwhelming material to show the complicity of the applicant. Attention of the Court was invited to panchanama of the CCTV footage which shows that the applicant took the deceased towards the edge of the platform No. 5 and, thereafter, pushed the deceased no sooner Awadh Express entered the station.

6. I have perused the report under section 173 of the Code and the documents annexed with it. The postmortem report indicates that the deceased died due to crush injury to the skull as she was ran over by the train. There is material to indicate that the deceased was found in a mortally injured condition on the railway track. The applicant was seen running away along with children immediately after the train ran over the deceased.

7. It is imperative to note that the statements of Ramphal Singh (API) and Manisha Ahirwar (WPC) prima facie indicate that the applicant, the deceased and their children were at the Vasai Road Railway station since the afternoon of 21st August, 2022 till the deceased came under the running train at 4.06 am on 22nd August, 2022. The applicant had requested Ramphal Singh to persuade the deceased to accompany the deceased. Prima facie there was marital discord between the applicant and the deceased.

8. The statement of Ashok Vasava, Loco-pilot indicates that at about 4.06 am when he entered Vasai Road Railway station an unknown person pushed an unknown lady on the track in front of him and the train ran over he said lady. As the train was in high speed, he could not stop the train.

9. The panchanama of CCTV footage prima facie incriminates the applicant. It indicates that at 4.06 am the applicant took the

deceased slowly towards the edge of the platform and no sooner Awadh Express entered the railway station pushed the deceased on the track. Thereafter, the applicant was seen running out of the railway station along with his children.

10. Cumulatively there is a very strong prima facie case against the applicant. A clear intent to cause the death of the deceased is, prima facie, evident. The marital discord and reluctance of the deceased to accompany the applicant to their home, as is stated by Ramphal Singh (API) and Manisha Ahirwar (WPC), furnishes motive for the crime.

11. In the face of the aforesaid material, this is not a fit case to exercise discretion in favour of the applicant.

Hence, the following order.

ORDER

1] The application stands rejected.

2] 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.

(N. J. JAMADAR, J.)