

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1185 OF 2008  
IN  
CRIMINAL APPEAL NO. 819 OF 2008

Pravin Premswarup Khandelwal ] .. Applicant

Versus

The State of Maharashtra ] .. Respondent

Mr. A.P. Mundargi, senior counsel i/b Mrs. Revati  
Mohite-Dere for the applicant.

Mrs. A.S. Pai, APP, for the respondent.

**CORAM: S.B. MHASE &  
R.V. MORE, JJ.**

**DATED: 22ND OCTOBER, 2008**

**P.C. :**

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

2. This is a bail application by the accused No.2  
from Sessions Case No.508 of 2007. According to the  
prosecution, the accused No.1 Aditi was earlier having a  
love affair with the deceased Udit and there marriage  
was also settled. However, on the advise of their  
parents both of them came to Pune for completing their  
Management Course and after completion of the said  
course, they were going to get married. The prosecution

further contends that, however thereafter, the accused No.1 Aditi fell in love with one Pravin - accused No.2 and they got secretly married and were staying in Gurgaon.

3. On 22nd April, 2007, both the accused Aditi and Pravin came to Pune and stayed in a lodge. Aditi invited the deceased Udit to a particular restaurant where they had some discussion. After that, Udit left in a perturbed state of mind. He then took liquor at some other place and at night, he became uncomfortable and was, therefore, admitted in the hospital. In the hospital it was found after investigation that arsenic was administered to him. The deceased disclosed that he had consumed "*prasad*" which was given to him by Aditi. The deceased thereafter succumbed. Under these circumstances, accused Nos.1 and 2 are convicted for an offence under section 302 r/w 120B IPC.

4. Learned counsel for the applicant submitted that there is no role assigned to the accused-applicant in the entire prosecution story, except the fact that he had accompanied Aditi to Pune. He submitted that at a particular time when Aditi and Udit met, Pravin, the applicant herein, was not with them. The prosecution evidence also shows that Aditi and Pravin have stayed in

the said lodge on earlier occasions also with their names as Aditi Sharma and Rohit Sharma. However, that factor also does not contribute in any way, to advance the prosecution story as against Pravin - accused No.2.

5. We asked the learned APP as to what was the direct evidence against Pravin to show that he was a conspirator along with Aditi. Learned APP submitted that he stayed alongwith Aditi in the Lodge under a fictitious name and the explanation that they came to Pune for refund of fees has also been found to be false because there was no application for refund of fees made by Aditi. Learned APP also tried to invite our attention to the statement of PW14 who is the mother of the deceased who deposed that on earlier two occasions, Pravin has threatened Udit on phone that Udit should stay away from the affair of Pravin and Aditi. However, that conduct itself, *prima facie* does not persuade us to believe that Pravin was a conspirator with Aditi. It is further to be noted that Pravin was on bail during trial and he has not misutilised the liberty given to him.

6. Taking into consideration all the above facts and circumstances of the case, we are inclined to grant bail to the applicant. Therefore, the sentence of Pravin - accused No.2 is hereby suspended under section

389 of the Criminal Procedure Code, 1973. The applicant is directed to be released on bail of Rs.10,000/- with like surety.

7. The Criminal Application, accordingly, stands disposed of.

Sd/-  
[R.V. MORE, J.]

Sd/-  
[S.B. MHASE, J.]