

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

CRIMINAL APPLICATION NO. 6061 OF 2015

KANCHABHAU @ SATISH MOHAN GAIKWAD
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Joydeep Chatterji.
APP for Respondent : Mr. A. R. Kale.
...

CORAM : **INDIRA K. JAIN, J.**

DATE : 07th December, 2015.

ORAL ORDER:

. Here is an application for regular bail in Crime No.61 of 2015 registered at Udgir (Rural) Police Station, District Latur for the offences punishable under Sections 302, 364, 506 (II) and 120(B) read with 34 of the Indian Penal Code.

2 Heard Mr. Joydeep Chatterji, learned counsel for Applicant and Mr. A. R. Kale, learned APP for State. Perused case papers.

3 The first informant is Savita Balaji Chavan. On 22nd April, 2015 she lodged report alleging therein that on 21st April, 2015 between 06:00 pm and 06:30 pm Accused Satish with Ram Dhanraj

Birajdar and Banti Sopan Arawale called her husband Balaji. Balaji refused to go. Then those three persons forcibly took Balaji away in an auto rickshaw. After 1 and ½ hours they brought back Balaji and threw him in front of the house of first informant. It was noticed that Balaji was unconscious. He was shifted to the hospital in auto rickshaw of Applicant and was declared dead by the doctor.

4 It is alleged that since before 4-5 days Applicant and other co-Accused were insisting Balaji to spend money of Bachat Gat on them. As Balaji did not spend the amount on them Applicant with others took him away and committed his murder and thereafter threw him in front of the house of informant.

5 Learned counsel for Applicant submitted that statements of eye witnesses were recorded during investigation and the independent witnesses do not support the version in FIR. Learned counsel referred to the postmortem report, memorandum panchanama of Applicant, alleged recovery and spot panchanamas. On the basis of the material learned counsel submitted that nothing incriminating can be revealed against the Applicant. Learned counsel thus prays to enlarge the Applicant on bail.

6 Application has been strongly resisted by the State. Learned APP submitted that Applicant with other co-Accused forcibly took away Balaji in auto rickshaw and after 1 and ½ hours he was thrown in front of the house of first informant. When Balaji was taken to hospital he was declared dead and in this circumstance learned APP submits that Applicant and co-Accused alone would be responsible for causing death of Balaji. Looking to the seriousness of offences learned APP submitted that application to enlarge Applicant on bail be rejected.

7 The motive attributed to commit murder as can be seen from FIR is that Applicant and other Accused were insisting Balaji to spend money of Bachat Gat on them and since Balaji did not respond to their demand, he was forcibly taken away and after 1 and ½ hours he was thrown in front of the house of informant. Independent witnesses do not support the prosecution story put forth in FIR and the statements of relatives of first informant.

8 So far as memorandum of Applicant, alleged recovery and spot panchanama are concerned, nothing incriminating can be seen against the Applicant.

9 The post conduct of Applicant is also relevant. It appears from FIR that after Balaji was thrown in front of the house Applicant and others shifted him to hospital.

10 In this premise involvement of Applicant in commission of murder of Balaji appears to be doubtful. Application deserves to be allowed. Hence the following order –

ORDER

- I. Criminal Application No.6061 of 2015 is allowed.
- II. Applicant Kanchabhau @ Satish Mohan Gaikwad is released on bail in Crime No.61 of 2015 registered at Udgir (Rural) Police Station, District Latur for the offences punishable under Sections 302, 364, 506 (II) and 120(B) read with 34 of the Indian Penal Code, on P.R. and S.B. of Rs.20,000/- (Rupees Twenty Thousand only) each.
- III. Applicant shall not tamper with the prosecution evidence and shall make himself available as and when required by Investigating Agency.

- IV. Till conclusion of trial Applicant shall keep himself away from village Nideban, Taluka Udgir, District Latur.

[INDIRA K. JAIN, J.]

ndm