

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.2393 of 2014

Rupesh Laxman Patil

.. Applicant

Versus

The State of Maharashtra

.. Respondent

Mr. Shekhar A. Ingawale, Advocate for the applicant.

Ms.Anamika Malhotra, APP for the Respondent State.

CORAM : ABHAY M. THIPSAY, J.**DATED : 11th FEBRUARY, 2015**

P.C. :

1 Heard Mr.S.A. Ingawale, learned counsel for the applicant. Heard Ms.Anamika Malhotra, APP for the State.

2 The applicant is alleged to have committed murder of his own mother with the help of his wife. The allegation against the applicant is as follows :-

That the applicant had taken the gold ornaments of his mother Smt.Vijaya for re-paying a certain loan which had been taken by him from a Bank. Because of this,there used to be disputes between him and his mother. On 7/12/2012, when the applicant was not at home, some quarrel took place between the applicant's mother and the applicant's wife – a co-accused. The applicant came and interfered in that quarrel; and committed murder of his mother by pressing her neck. After that, the

applicant and his wife created a false scene to make it appear that robbery had taken place in the house. The applicant then lodged a report with the police to the effect that two unknown persons had entered inside the house, in his absence, had tied the applicant's wife and mother, and had committed robbery by taking away two gold bangles of the applicant's mother, and some cash that was in the house, and that while committing robbery, the said unknown offenders had committed murder of the applicant's mother by pressing her neck. On the basis of this report lodged by the applicant, investigation commenced, and it was revealed that the story of robbery was false, and that actually it was the applicant and his wife who had committed the murder of applicant's mother.

3 The applicant had previously also applied for bail on two occasions, but on both these occasions, the applications were withdrawn by him after making certain arguments.

4 The present application has been made primarily on the ground that the applicant is in custody since December 2012, and that the trial has still not commenced. My attention is drawn to the order dated 23rd June 2014 passed by me wherein liberty was granted to the applicant to apply afresh for bail in the event of the trial not commencing within a period of six months from the date of the said order. Today, Mr.Ingawale submits that the trial has not commenced till today, and that as such, the applicant is entitled to have the question of bail, re-considered.

5 I have, therefore, re-considered the question of releasing the applicant on bail. I find that there exists a *prima*

facie case against the applicant. It may be observed that the property which the applicant had claimed, was robbed by unknown offenders, has been recovered from, or at the instance of the applicant himself. Mr.Ingawale submitted that the description of the property, as mentioned in the FIR, and what has been recovered, does not tally, but in the circumstances, I am not inclined to give much importance to this aspect. It is because the description has been based only on what the applicant said to the police while lodging the report.

6 Though the case is based on circumstantial evidence, statements of certain persons that came to be recorded make out a strong *prima facie* case against the applicant. Under these circumstances, merely because the applicant is in custody for more than two years, and the trial has not yet commenced, I do not think it fit to release the applicant on bail.

7 At this stage, Mr.Ingawale submits that the charge in the matter has already been framed. It would be proper therefore, to direct the trial to be expeditiously held.

8 Application is rejected.

9 However, it is directed that the trial court shall proceed with the trial expeditiously, and endeavour to complete it within a period of six months from the date of receipt of this order.

(ABHAY M.THIPSAY, J)