

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.581 OF 2015

Navnath Bhimrao Shinde ... Applicant

vs.

The State of Maharashtra ... Respondent

Mr. Kedar Patil, for the Applicant.

Mr. Arfan Sait, APP for Respondent – State.

CORAM: MRS.MRIDULA BHATKAR, J.

DATE: JULY 07, 2015

P.C.:

. The application is moved for bail. The applicant/accused is facing charges for the offences punishable under Section 302 read with 34 of the Indian Penal Code in C.R. No. 194 of 2014 registered with Indapur police station, Baramati.

2. It is the case of the complainant Dattatray Shinde that the applicant/accused is the cousin of the complainant. The deceased Shalan Shinde was the mother of the complainant. She used to quarrel with her sister i.e. the mother of the applicant/accused and

used to defame the wife of the applicant/accused. The deceased wanted that, the wife of the applicant/accused to marry her son, as she was disappointed. She used to abuse and defame the family of the applicant/accused. It is the case of the prosecution that, on the night of 9th and 10th June, 2014, the mother of the complainant (deceased Shalan) was sleeping outside the house. In the morning, she was found dead. She was assaulted by a big stone which was found next to the deceased. The deceased was bleeding profoundly. She died on the spot. Thereafter, the incident was reported to the police on 10th June, 2014. The offence was registered against the unknown person. The applicant/ accused was arrested one month after the incident i.e. 13th July, 2014. Hence, this application.

3. The learned counsel for the applicant/accused has submitted that the applicant is innocent. He has not committed any offence. There is no evidence against the applicant/accused. The extra judicial confession on which the prosecution is relying is of his wife and the mother which would not stand in the Court. He further submitted that there is no sufficient evidence against the applicant/accused. He submitted that the deceased was sleeping in between his

two children and it is impossible to accept that she was assaulted with the stone when her two children were sleeping beside her and they did not awake.

4. The learned prosecutor opposed the application. He submitted that, there was a strong motive for the applicant/accused to kill the deceased. He further submitted that after the incident the applicant/accused and co-accused were absconding. The applicant/accused did not attend the funeral on the ground that he had been to a contractor to collect money. He submitted that the conduct of the applicant/accused and the motive are the strong circumstances against him. Therefore, the application be rejected.

5. Perused the first information report and statements of witnesses. It discloses that the applicant/accused *prima facie* had a motive. There is a statement of one witness i.e. the grand-father Bhimrao Shegar who has stated that the applicant/accused has told him on the night of 9th June, 2014 that he would eliminate the aunt and on the same night Shalan was murdered. It was submitted that statement under Section 164 of Code of Criminal Procedure of two

persons are recorded however, the statements of wife and mother of the applicant are not recorded under Section 164 of Code of Criminal Procedure. It appears that this submission made by the learned counsel for the applicant/accused is correct. However, the statements of wife and mother discloses the extra judicial confession given by the applicant/accused about the commission of the crime. The submission of the learned prosecutor on the point of conduct of the accused and the motive are also taken into account. Considering all these circumstances, I am not inclined to grant bail to the applicant.

6. The bail application stands rejected.

7. However, it is submitted that this is the case of only four witnesses. Hence, the trial Court to endeavor to complete the trial within one year from the receipt of the order.

(MRS.MRIDULA BHATKAR, J.)