

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.625 OF 2015

Sampat Nathu Shendge ... Applicant

Vs.

The State of Maharashtra ... Respondent

a/w

BAIL APPLICATION NO.627 OF 2015

Khandu Umaji Deokate ... Applicant

Vs.

The State of Maharashtra ... Respondent

Mr.S.V. Kotwal i/b P.S. Hagare for the Applicant in BA/625/2015
Mr.K.S. Patil i/b P.S. Hagare for Applicant in BA/627/2015
Ms.Veera Shinde, APP, for State in both the matters
Mr.Satish Shidne, Investigating Officer / API, Vadgaon Nimbalkar police station – present

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **AUGUST 11, 2015**

P.C.:

1. These applications are moved for bail as the applicants/accused in both the Anticipatory Bail Applications are facing prosecution under section 302 of the Indian Penal Code in C.R. No.218 of 2014 registered at Vadgaon Nimbalkar police station, Taluka Phaltan, District Satara. The complaint was registered at the instance of one Sakharam Rama Deokate on 2.12.2014. It is the case of the prosecution that on 24.11.2014,

Rajaram Deokate, brother of the complainant, alongwith the applicant/accused Sampat Shendge and one Sampat Bhaguji Sul consumed liquor together and thereafter, Rajaram was found dead. His body was taken and last rites were performed on the body by the relatives under the impression that he died due to excessive consumption of liquor. However, after enquiry with Sampat Bhaguji Sul, who was present alongwith the applicant/accused Sampat Shendge and the deceased Rajaram throughout on that day, he disclosed that the applicant/accused Sampat Shendge had brought the liquor and they all consumed it. However, he offered liquor to the deceased in a separate glass and the applicant Sampat Shende and the witness Sampat Sul shared one glass. Thereafter, the deceased died. He disclosed that the maternal uncle of the applicant/accused Sampat Shendge had died after consuming liquor in the company of the deceased Rajaram and the applicant/accused Sampat Shendge was convinced that the deceased had murdered his maternal uncle and, therefore, out of vengeance, he administered poison to the deceased. He had disclosed that the accused No.1 Sampat Shendge committed the crime at the instance of Accused No.2 Khandu Deokate. After disclosure of these facts by witness Sampat Sul, offence was registered against the applicants/accused and they were arrested on 2.12.2014 and hence, this bail application.

2. The learned Counsel for the applicants/accused submitted that the evidence against the applicants/accused is insufficient. This is a case where the body was disposed off without postmortem. So, the cause of death is not known to the Investigating Officer. He submitted that the disclosure made by Sampat Sul about extra-judicial confession and the incident is not to be relied on especially in view of the statements of another witness Dnyanwardhan Jaypatre, which was recorded on 2.12.2014. People gathered when Rajaram was left by the Sampat Sool in the field of Jaypatre and they handed over him to his relatives. Therefore, *prima facie*, the story narrated by Sampat Sul, who is a star witness of the prosecution, is not to be believed. He further submitted that there is no evidence against the applicants/accused. He relied on the statements of the witnesses and submitted that the applicants/accused are arrested only on suspicion. There are no antecedents against the applicants/accused. He has, therefore, submitted that the applicants/accused are entitled to bail.

3. Learned Prosecutor has opposed the application. She submitted from the statement of Sampat Sul, that the applicant/accused Khandu Deokate and Sampat Shendge were together with the deceased and Khandu Deokate administered poison mixed in the liquor to the deceased and thereafter the deceased died. He relied on the C.A. report disclosing that a poison namely 'algodon' was found in the bottle and the said bottle

was recovered at the instance of accused No.2 Khandu Deokate and the C.A. report is positive. She further submitted that one other liquor bottle was recovered at the instance of the accused Sampat Shendge. There is evidence of last seen together and, therefore, the applications are to be rejected.

4. Perused the FIR, the statements of the witnesses and the C.A. report. The body of Rajaram was disposed of without postmortem and so the cause of death is not known. In the statement of Sampat Sul, who is a prime witness, there is contradiction in respect of extra-judicial confession as stated in the statement of Sampat Shendge in light of statement made by Jaypatre. Though the report of C.A. in respect of poisonous substance is positive, there is no connection in the recovery at the instance of the accused Khandu Deokate and the Sampat Shendge.

5. In view of the above, I am inclined to grant bail to the applicants/accused, on the following conditions:

- i) The applicant/accused Khandu Umaji Deokate shall be released on bail upon furnishing P.R. Bond in the sum of Rs.40,000/-, (Rupees Forty thousand only) with one or two sureties in the like amount;

- ii) The applicant/accused Sampat Shendge shall be released on bail upon furnishing P.R. Bond in the sum of Rs.50,000/- (Rupees Fifty thousand only), with one or two sureties in the like amount;
 - iii) The applicants shall not tamper with the evidence;
 - iv) The applicants shall not indulge into any kind of offence while on bail;
 - v) The applicants shall attend on all the Court dates.
 - vi) In the event the applicants/accused change their address, they shall furnish all the details thereof including contact numbers to the Investigating Officer.
6. Bail Applications are disposed of on the above terms.

(MRS.MRIDULA BHATKAR, J.)