

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1051 OF 2014

Bharat Ramdas Dhokrat

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. R. N. Gite for Applicant

Mr. A. S. Shitole APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : JANUARY 5, 2015

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is apprehending his arrest in crime no. 19 of 2014 registered at Lalasgaon police station, Nashik for offences punishable under sections 394, 376 (g), 302, 324 & 201 of Indian Penal Code. Investigation is completed and charge-sheet is filed on 31/03/2014.

2) It is the case of prosecution that on 03/02/2014, applicant had lodged a report at the police station alleging therein that on 02/02/2014, he was returning from Jalgaon (Ravalgaon) to his house along with his wife on motorcycle. At about 8.00 pm, his father had called him telephonically when

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he had informed his father that he would reach home within half an hour. At about 8.30 pm, when he was at Satmori, four unknown persons accosted him. They had pushed his vehicle by the side of the road. Their faces were muffled. They had taken the wallet from the applicant. His wife had also given her Mangalsutra to them. They had requested those four persons to release them, however, they had dragged his wife. They had tied him with the help of his shirt and baniyan. They had assaulted him on his forearms and thereafter, they had ravished his wife and had left her abandoned nearby. Applicant managed to call his father on the cellphone to the spot. His father and his cousin Bhausahab Dhokrat came to the spot. Applicant had disclosed the incident to them. Father of the applicant had called upon the police. Police had arrived at the spot. Applicant was taken by the police to the hospital. He has further stated that from the discussion of the people who had gathered, he learnt that the four unknown persons had killed his wife by slitting her neck.

3) Investigation was set in motion. Investigating officer, after inquiry with the applicant had realized that he has concocted a story and therefore, had arrested him. In the course of investigation, it was revealed that the

motorcycle on which the applicant was travelling at the given point of time, belonged to one Tanaji Thakar. That the co-accused Gulab Thakar happens to be the cousin of Tanaji Thakar. On 02/02/2014, Gulab Thakar had taken the motorcycle from Tanaji at about 6.00 pm and had returned the motorcycle at about 11.00 pm. Gulab Thakar is in custody.

4) Learned APP submits that in the course of investigation that Gulab Thakar had admitted to have committed an offence and a knife has been recovered at his instance under section 27 of Indian Evidence Act. Upon perusal of papers of investigation, it prima facie appears that the applicant had rather concocted a story when he was taken to the police station.

5) Learned counsel for the applicant submits that at this stage, besides the statement of the co-accused, there is no evidence worth its name to implicate the present applicant in crime no. 19 of 2014. According to learned counsel, applicant had no *Mens Rea* or else, he would not have filed a report.

6) Learned APP submits that applicant had concocted a defence story.

According to learned APP, it was a predetermined act. It appears from the papers of investigation, that the deceased wife was humiliated by the applicant. She had informed her parents about ill-treatment meted out to her. Mother of the deceased had disclosed to the police that applicant had illicit relations with her co-sister and that Shital had witnessed the same.

7) Learned counsel for the applicant further submits that post mortem notes do not form part of the charge-sheet and therefore, according to the learned counsel, prosecution does not wish to place reliance upon post mortem notes.

8) Learned APP has produced post mortem notes today. Upon perusal, it appears that the dead body of Shital i.e. wife of applicant was sent for post mortem on 03/02/2014 at about 11.50 am. Rigor Mortis had already set in. The injuries on her throat were ante-mortem in nature. There is nothing to indicate that the deceased had been subjected to sexual assault. Hence, it is apparent that a story has been concocted by the present applicant.

9) Hence, application, being sans merits, deserves to be rejected. Observations made herein above are prima facie in nature and Sessions Court shall not be influenced by the same at the time of trial.

ORDER

(i) Application stands rejected.

(SMT. SADHANA S. JADHAV, J.)