

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.1416 OF 2015

Mr. Ashokkumar Manikchand
Sharma

...Applicant

Versus

The State of Maharashtra

...Respondent

.....

Mr. E.B. Dixit i/b. Mr. PR. Yadav for the Applicant.

Ms R.V. Newton, APP for the Respondent -State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : 27th NOVEMBER, 2015.

P. C. :

This is a bail application filed by the aforesaid Applicant, who is an accused No.1 in Sessions Case No.142 of 2015 pending before the Sessions Court, Nashik, for the offences punishable under sections 363, 302, 201 and 118 of the IPC.

2. Heard the learned counsel for the Applicant and the learned APP for the Respondent-State.

3. The learned counsel for the Applicant submitted that there is no prima facie material to show the involvement of the Applicant in commission of the offence. He stated that the Applicant had no motive

in causing the death of Shantidevi Radheshyam Sharma. He has further stated that the post mortem report also does not reveal that the death was homicidal. The learned counsel for the Applicant further submitted that the Applicant has not been identified by any of the witnesses. He has submitted that the Applicant has no criminal antecedents and that he being a resident of Thane there are no chances of the Applicant threatening the witnesses or causing hindrance to the trial.

4. The learned APP has submitted that there is prima facie material to show the involvement of the Applicant in commission of the crime, which is of serious nature. She has further submitted that the charge-sheet has already been framed and that the Applicant is not entitled for bail.

5. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties. The records prima facie reveal that one Ekta Kailas Sharma, the daughter-in-law of the deceased had lodged a complaint dated 6th February, 2015 alleging that on 5.2.2015 at about 4.30 p.m. she had gone to meet the tuition teacher of her children. When she returned home she saw one gray colour car leaving from the compound and the door of the flat

was open. She has stated that her mother-in-law, Shantidevi was not found in the flat and one white and blue colour bed sheet was missing. Her neighbours told her that two persons had wrapped something in a white and blue colour bed sheet and that they had taken away the same in a gray colour vehicle. Pursuant to the report, Crime No. I-60 of 2015 was registered for the offence punishable under section 363 of the IPC.

6. The supplementary statements of the complainant were recorded on 7.2.2015, 8.2.2015 and 10.2.2015, which revealed that on the relevant date she had received phone calls from the Applicant, who is her brother-in-law and that he had told her that he was in the compound. The Applicant enquired about her children. She informed him that her children had gone for tuition, at which time the Applicant once again told her that he is in the compound. When she went down she saw a gray colour car in front of the road outside the gate of the society. She has stated that the Applicant was seated on the rear side of the car alongwith one lady. The complainant has stated that the Applicant had told her that his two persons would be coming to her house. When she enquired about the reasons, the Applicant told her to keep quiet and once again told her that said persons would come to

her house. She told the Applicant to wait as she was going to see her daughter, who had gone for tuition. She has stated that when she returned, she saw one car parked outside the road, facing towards the gate of the society. The Applicant this time was seated on the driver seat. She also saw two other persons keeping something wrapped in white and blue colour bed sheet in the dicky of the said car. Even before she could question them, the said two persons sat in the car and the car proceeded. When she went to the flat she found her mother-in-law was not in the house. She found that the white and blue colour bed sheet was also missing from her house. She had stated that the bed sheet, which was kept in the dicky was similar to the bed sheet missing from her house. She tried to phone the Applicant but she was unable to contact him. In the evening when she asked the Applicant about her mother-in-law, the Applicant told her that she would come and disconnected the phone. She therefore, suspected that the Applicant and his associates had abducted her mother-in-law with an intention to causing her death.

7. In the course of the investigation, the Applicant as well as the first informant and the other co-accused came to be arrested. The records prima facie reveal that pursuant to the statement made by the

driver of the vehicle the decomposed body of the deceased, the white and blue colour bed sheet, some bandages, etc. were recovered from a valley of Malshiras Ghat. The said body was identified as that of the deceased Shantidevi. The said body was sent for post mortem and the post mortem report prima facie reveals that death was due to cardiopulmonary arrest due to asphyxia. The material on record therefore, prima facie proves that the death was homicidal.

8. The statements of the witnesses prima facie reveal that they had seen the Applicant and some others in a gray colour vehicle parked outside the gate of the society wherein the deceased was residing. That the Applicant had told the complainant that he would send his men to the flat. The witnesses had also seen the two persons keeping a bundle/parcel wrapped in a white and blue colour bed sheet in the dickey of the said car. The deceased was missing from the flat and her body as well as the said bed sheet was recovered from a valley at Malshiras Ghat at the instance of the driver of the said car.

9. The statement of Umesh Deshmukh also reveals that the said vehicle was the vehicle, which was used for commission of crime, was recovered at the instance of the Applicant. The material on

record, thus, prima facie proves the involvement of the Applicant in committing the said crime. The offence is of serious nature and upon conviction, is punishable with life imprisonment or death. The offence was pre meditated. The trial has not yet commenced and the possibility of the Applicant tampering with the evidence cannot be ruled out. Having regard to the facts and circumstances of the case, the Applicant is not entitled for bail.

10. The application for bail is accordingly dismissed.

(ANUJA PRABHUDESSAI, J.)