

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1548 OF 2015

Sanjaykumar Raghuprasad Gautam ..Applicant

-Versus-

State of Maharashtra ..Respondent

Mr.M.K.Kocharekar i/vb,. Randhir A. Kale for applicant

Ms.M.H.Mhatre, APP for State

Mr.P.L.Kale, P.I. Navghar Police Station, Mulund Present.

CORAM : A.S.GADKARI, J.

DATE : 18th November 2015.

P.C.

1] The applicant is seeking bail in C.R.No.168 of 2014 under section 302, 201 of Indian Penal Code registered with Navghar police station, Mulund, Mumbai.

2] It is the case of the prosecution that the applicant was married with Rekhadevi Gautam (deceased). The applicant used to suspect about the character and fidelity of his wife Rekhadevi Gautam and, therefore, he committed her murder and disposed of her body by putting it in a jute bag. The dead body stuffed in a jute bag was

found on the dumping ground at Mulund on 14th September 2014. The first information is lodged by the employees of Municipal Corporation working at the said dumping ground. After completion of the investigation, police have now filed charge sheet in the matter.

3] Heard the learned Counsel for the applicant and the learned APP. The Counsel for the applicant submitted that apart from the two statements of witnesses, allegedly saw the applicant lastly with the deceased, there is no other evidence on record. He submitted that as a matter of fact, the two statements of witnesses/neighbours Rohini Sherkhane and Ravikumar Mohan Sherkhane do not speak anything about the fact that they saw deceased lastly with applicant as put forth by the prosecution. He submitted that the applicant was arrested on 18th September 2014 and since then, he is in jail. In the circumstances, he submitted that the applicant may be released on bail.

4] Per contra, the learned APP submitted that the statements of the aforesaid prosecution witnesses are sufficient to point out that the applicant was lastly seen in the company of deceased and when

on the morning the said witness enquired with the applicant, he could not explain about the whereabouts of the deceased. She further submitted that the pieces of bedsheet and piece of Green nylon string and blue plastic bag which were found on the scene of offence, tally with the pieces of bed sheet, nylon string and blue coloured plastic bag which were seized from the residence of the applicant during the course of house search. She relied upon the chemical analysis report in that behalf. According to her, as there is sufficient evidence against the applicant, she prayed that the application be dismissed.

5] I have perused the entire record produced before me. At the outset, it may be noted that a bare perusal of the statements of the aforesaid two witnesses disclose that it is nowhere mentioned that the said two witnesses had seen the applicant lastly in the company of deceased. The statements mention that on 13th September 2014, at about 10.30 p.m. they heard sound of utensils falling from the neighbouring house of the applicant and when they asked him as to what had happened, he replied that he had a fall in his house. Apart from the said fact nothing else is mentioned in the statement. As far

as the finding of articles mainly one blue coloured plastic bag, Green coloured Nylon rope/string and three pieces of bedsheet at the scene of offence is concerned, it is to be noted that the house search panchanama dated 21st September 2014 mentions that during the course of said house search, three pieces of bedsheet (old in use) one Nylon string/rope and one blue coloured plastic bag was found at the residence of the applicant. It is further to be noted here that there is no detailed description mentioned either in the seizure panchanama dated 21/10/2015 about the pieces of bed sheet which were found at the scene of offence. Likewise, there is no specific description about the pieces of bedsheets which were found at the residence of the applicant. As far as other two items namely nylon rope/string and blue coloured plastic bag is concerned, both the said items were found independently. They have no direct nexus with the articles found on the spot. The chemical analysis report mentions only about the physico textile characteristics of the said items tally. It appears from the record that both the said articles were intact and it is not the prosecution case that the string/rope was cut into pieces and its ends are tallying with each other as per the chemical analysis. Therefore, prima facie, it

appears that apart from the seizure of the aforesaid three articles at the house of the applicants, there is no other evidence against the applicant.

6] In the circumstances, I am inclined to grant bail to the applicant. Hence, the following order:-

- (i) The applicant is released on bail on his furnishing P.R.Bond of Rs.25,000/- with one or two solvent local sureties to make up the amount;
- (ii) The applicant shall attend Navghar Police Station between 10.00 a.m. and 2.00 p.m. once in a month on every first Monday during the pendency of the trial.
- (iii) The applicant shall not tamper with the evidence and/or influence the prosecution witnesses;
- (iv) Application is allowed in the aforesaid terms.

(A.S.GADKARI, J)