

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE – CRIMINAL
BAIL APPLICATION NO.1962 OF 2014

Twinkle @ Anupam Jayprakash Mishtra ... Applicant
Vs.
The State of Maharashtra ... Respondent

Mr. Sushan Kunjuraman for the Applicant
Mrs. A.A. Mane, APP, for the Respondent-State.

CORAM: P.D. KODE, J.

DATED: JANUARY 9, 2015.

PC:

1. By this application for bail accused No.1 in charge-sheet submitted by Nalasopara police station as a result of investigation of Crime No.I-74/2014 prays for bail. The said accused is charge-sheeted accordingly by the said police station on the allegation of himself in furtherance of his common intention alongwith other charge-sheeted accused having committed the murder of one Ravi Vishram Solanki @ Papa by assaulting him by means of rod and lateron for screening themselves has caused the disappearance of the evidence of said crime by burning his clothes.

2. The crime in question was registered upon the FIR lodged by the brother of the deceased. The perusal of the said report does not

reveal that he had witnessed incident in question and had lodged the report after receipt of an information on Mobile Phone that his brother was assaulted by unknown assailants. Perusal of the charge-sheet does not reveal that there was eye witness for the crime in question. The entire accusation against the Applicant is based upon the circumstantial evidence.

2. Learned APP objected the prayer for bail on the count of I.O. having seized an iron rod and burnt clothes and ashes as the sequel to the statement leading to the discovery of such articles made by the Applicant on 9.2.2014. It is further submitted that offence is of a serious nature and the Applicant is having antecedents and as such in event of himself being released on bail he may flee away and /or tamper the prosecution evidence.

3. Mr. Kunjuran for the Applicant has pressed the prayer for bail on the ground that charge-sheet is devoid of any material showing nexus of the Applicant with the crime in question. It is his submission that even in the FIR there is no allegation of the Applicant being responsible for the said murder. It is further urged that even the supplementary statement of the first informant recorded on the next day and pointed out by the learned APP does not transcend beyond expressing the suspicion of the Applicant being culprit.

4. Mr. Kunjuraman contended that suspicion cannot take place of a proof and as such there being no material in the charge-sheet *prima facie* showing nexus of the Applicant with the crime in question he is entitled for bail.

5. The perusal of the charge-sheet supports the submissions canvased by the learned counsel for the Applicant. Even accepting the material in the shape of memorandum and discovery panchnama, considering the time gap in between two events i.e. occurrence of incident on 4th February, 2014 and recovery being made on 9th February, 2014 and the same being not from the house of the Applicant but from an open place *prima facie* the said material appears to be incredible for showing nexus of the Applicant in crime in question.

6. Even accepting that the offence is of a serious nature still on the said count itself prayer for bail cannot be negated. But having due regard to the apprehensions expressed by the learned APP it appears proper to consider prayer for bail with certain stringent conditions.

7. Resultantly the application is allowed. The applicant is directed to be released on bail in C.R. I-74/2014 of Nalasopara Police Station furnishing P.R. Bond in the sum of Rs.1,00,000/- (Rupees One Lakh only) with one or more sureties to make up like amount and

subject to conditions that after his release the applicant shall (i) stay at the address mentioned in the application and shall not change the same without permission of the Trial Court; (ii) attend the I.O. on every Monday in between 5:00 p.m. to 6:00 p.m. until further orders; (iii) not indulge in activity of tampering, threatening, coercing, intimidating or pressurizing the prosecution witnesses in any manner; and (iv) not misuse the protection granted vide this order for fleeing away or for committing any further offence.

8. The application accordingly stands disposed of.

(P.D. KODE, J.)