

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.2260 OF 2015

Amol Lahu Pokala

..Applicant

-Versus-

The State of Maharashtra

..Respondent

Mr.Rajiv Patil, Senior Advocate i/b. Priyanka Thakur for applicant

Ms. M.H.Mhatre, APP for State

Mr. Manoj Badgujar for original complainant/intervenor.

CORAM : A.S.GADKARI, J.
DATE : 9th December 2015.

P.C.

1] The applicant is seeking bail in C.R.No.I-148 of 2015 registered with Shahapur police station Thane (Rural) under section 302 IPC. The F.I.R. was lodged by one Yogesh Soshte, the brother of the deceased (Nilesh). The dead body of Nilesh was found on 8/5/2015 in the forest near the town Asangaon and, thereafter, the FIR was lodged against unknown persons. During the course of investigation it was revealed that the present applicant has committed the said crime. After completion of investigation, the police have filed charge sheet.

2] Heard the learned Counsel for the applicant, the learned

Counsel for the complainant and the learned APP.

3] Learned Counsel for the applicant submitted that apart from strong suspicion and motive, there is no other evidence on record to show the complicity of the applicant in the present crime.

4] Learned APP on the other hand submitted that apart from the motive, there are two other circumstances against the applicant. First being discovery of axe at the instance of applicant from the river bed and second is the statement of applicant's wife wherein she has stated that the deceased was having an ill eye on her and she disclosed the said fact to the applicant. The said statement discloses motive behind the crime. Learned Counsel for the original complainant reiterated the submissions made by the learned APP.

5] It is the settled position of law that, suspicion howsoever strong it may be, cannot take the place of legal proof. In the present case, apart from suspicion, the first circumstance which has been put forth by the prosecution is of motive. Though the wife of the applicant has spelt the motive behind the crime, she nowhere has stated that the applicant assured her that he will take care of the problems which were being faced by her because of the deceased. As far as second circumstance of discovery of weapon i.e. axe at

the instance of applicant from the river bed is concerned, obviously the axe would not have any blood stains on it as it was found in the river bed with flowing water. Apart from these two circumstances, there is no other circumstance put forth by the prosecution against the applicant.

6] In view of the above, the applicant has made out a case for grant of bail.

Hence, following order:-

- (i) The applicant is released on bail in C.R.No.I 148 of 2015 registered with Shahapur Police Station on his furnishing P.R.Bond of Rs.50,000/- with one or two solvent sureties in the like amount;
- (ii) After release, the applicant shall report to Shahapur police station on first Monday of every month till conclusion of trial;
- (iii) The applicant shall not tamper with and/or influence the prosecution witnesses;
- (iv) The application is allowed in the aforesaid terms;

(A.S.GADKARI, J)