

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2553 OF 2014

Jaysingh Mahadeo Karwande

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Tushar Jadhav for Applicant

Mr. S. S. Pednekar APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : JANUARY 19, 2015

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is arrested on 26/02/2014 in crime no. 41 of 2014 registered at Khed Police Station, District Pune, for offence punishable under section 302, 404 & 201 of Indian Penal Code. Investigation is completed and charge-sheet is filed on 15/05/2014.

2) It is the case of prosecution that present applicant is working at Chandoli Toll Naka, near village Khed. It is alleged that on 23/02/2014, Mahadev Pawar lodged a report at the police station that he was informed by Ramdas Ghanvat that his daughter Jamuna has expired. Thereafter, he had

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been to the house of Jamuna at Shirol. His grand daughter Ankita & Sidhesh were seen weeping. He had reached the spot of incident, where his daughter Jamuna had been killed. He had gone to the room and seen the scene of offence. Initially, he had suspected his son-in-law. He did not know the reason for eliminating his daughter. He had learnt that on 22/02/2014, Jamuna had left the house on the pretext of going to the hospital and thereafter, she had not returned. He, therefore, disclosed to the police that she was killed by some unknown person for some unknown reason.

3) Post mortem notes would show that the face of the deceased was disfigured by a crush injury. There was a fracture of nasal bone. It appears that she had been brutally assaulted prior to her death.

4) In the course of investigation, investigating agency had collected the call records of the deceased with the present applicant during the period 19/02/2014 & 23/02/2014 which would reveal that present applicant was in contact with deceased prior to her death. Papers of investigation would show that investigating officer has seen the CCTV footage at the Toll plaza, which

would show that on 22/02/2014, applicant was seen in the company of Jamuna. Similar is the statement of Vanita Kadlag. Vanita happens to be the niece of the husband of the deceased. She has disclosed that people in the vicinity were aware that the deceased had illicit relations with the present applicant. Deceased had expressed her desire to elope with the present applicant. It is also stated that the husband had once brought his wife from the room, where alleged incident had taken place. The evidence against present applicant is in the nature of last seen together.

5) Learned counsel for the applicant submits that it is not surprising that his images were captured in the CCTV footage at the Toll plaza, since he was working at the said place. It is also submitted that CCTV footage does not specify the time, when the present applicant was seen in the company of the present applicant and therefore, it cannot be said that there is proximity between last seen evidence and the death of Jamuna. According to learned counsel, evidence is circumstantial in nature, investigation is completed and charge-sheet is filed and therefore, applicant deserves grant of bail.

6) Upon perusal of papers of investigation and reading the statements of the witnesses, it is prima facie clear that applicant had illicit relations with the deceased. He was in contact with her since 19/02/2014 till the time when she died. Soon before the incident, applicant was seen in the company of deceased and hence, “prima facie there is evidence of last seen together”.

7) Learned counsel for the applicant has placed reliance upon the Judgment in the case of **State of U.P. Vs. Satish** reported in 2005 (3), Supreme Court Cases, 114. In para 22 of the said Judgment, Hon'ble Apex Court has observed that:

“The last-seen theory comes into play where the time-gap between the point of time when the accused and the deceased were last seen alive and when the deceased is found dead is so small that possibility of any person other than the accused being the author of the crime becomes impossible.”

8) These were the observations of the Hon'ble Apex Court in an appeal against acquittal. In the present case, there was intimate relationship between applicant and the deceased. Deceased had specifically disclosed that she wanted to elope with present applicant. It appears that there was change of

mind and therefore, applicant can be said to have a motive to eliminate her. Hence, application deserves to be rejected.

ORDER

- (i) Application, being sans merits, is rejected.

(SMT. SADHANA S. JADHAV, J.)