

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2677 OF 2016

Ishwar S/o Shivanand Panchal,
Age : 27 years, Occu.: Driver,
R/o. Shirur Tajband,
Tq. Ahamadpur, Dist. Latur .. Applicant

Vs.

The State of Maharashtra
Through P.I. Jalkot Police Station,
Dist. Latur .. Respondent

WITH

CRIMINAL APPLICATION NO. 2807 OF 2016

Vaijnath S/o Chandrakant Lavhrale
Age : 34 years, Occu.: Agriculture,
R/o Morewadi, Tq. Ahmadpur,
Dist. Latur .. Applicant

Vs.

The State of Maharashtra
Through P.S. Jalkot
Tq. Jalkot, Dist. Latur .. Respondent

AND

CRIMINAL APPLICATION NO. 2660 OF 2016

Alok Rajeshwar Reddy
Age : 26 years, Occu.: Business,
R/o Shirur-Tajband, Tq. Udgir,
District Latur .. Applicant
(accused no.6)

Vs.

The State of Maharashtra
Through Jalkot Police Station
Tq. Jalkot, District Latur

.. Respondent

.....

Mr. T.M. Venjane, Advocate for the applicant (2677/2016)
Mr. G.P. Shinde, Advocate for the applicant (2807/2016)
Mr. A.V. Indrale Patil, Advocate for applicant
(2660/2016)
Mr. A.S. Shinde, APP for the respondent-State

.....

CORAM : N.W. SAMBRE, J.

DATE : 14/06/2016

ORAL ORDER :

Heard.

2. All these applicants are seeking regular bail in Crime no. 47 of 2015 registered at Jalkot Police Station, Tq. Jalkot, Dist. Latur for the offences punishable under section 302, 201, 120-B, 363, 365, 341 r/w. 34 of the Indian Penal Code.

3. The role attributed to the applicant – Ishwar is that he was driver of Innova in which deceased Rohit was kidnapped. The said fact could

be inferred from the report submitted the Investigating Officer to the learned A.P.P. So far as the applicant - Alok Rajeshwar Reddy in Criminal Application No.2660 of 2016, it appears that he is named as accused no. 6 in the crime in question and it is claimed that since accused no.6 was unable to recover the amount from the brother-in-law of deceased Rohit namely Mangesh Kotalwar, he even gave contract for murdering Rohit to accused no.4 through accused no.7 - Pramod @ Kerba Shinde.

4. So far as accused in Criminal Application no. 2807 of 2016, namely, Vaijnath S/o Chandrakant Lavhrale is concerned, the role attributed to the applicant is that of accompanying with the other accused persons.

5. It is not in dispute that the investigation in the matter is complete and the chargesheet is already filed.

6. The case of the prosecution is based on circumstantial evidence.

7. While trying to make out case for grant of regular bail, learned counsel for the applicants submit that even if the material as is available on record is presumed to be admissible against the applicants, since there is no completion of chain pointing a finger of guilt to the applicants/accused, applicants may be released on bail. Learned counsel for the applicants would jointly submit that apart from the entitlement of bail on merit, since the other co-accused are already ordered to have been released on bail by this Court vide orders dated 25/2/2016 and 21/4/2016 passed in Criminal Application nos. 1040 of 2016 and 1796 of 2016, respectively, the applicants claim parity.

8. The learned counsel for the applicants then

submit that the discovery under section 27 of the Indian Evidence Act particularly against accused – Alok cannot be made admissible particularly in the background of statement of the witness – Rajkumar Patil – Police Patil and report of the Investigating Officer to the learned Judicial Magistrate First Class, Udgir as regards the discovery of the spot of recovery of dead boy of deceased – Rohit.

9. Learned A.P.P. while strenuously opposing the bail applications would urge that there is incriminating material available against the accused persons. He would submit that so far as accused – Ishwar is concerned, from the statement of these witnesses, it may be inferred that the applicant was driving the vehicle Scorpio which was used for kidnapping deceased – Rohit. Apart from above, he would submit that discovery under section 27 of the Indian Evidence Act speaks voluminous about the involvement of accused – Alok, who has shown the

spot of disposal of the dead body of deceased, which is in Karnataka state.

10. Having bestowed my thoughts to the submissions advanced, it is required to be noted that case of the prosecution as against the other accused namely Govind Malfedwar, Shivchandra @ Baban Malfedwar and that of Suraj Khirade, as is considered in Criminal Application nos. 1796 of 2016 and 1040 of 2016 for grant of regular bail, appears to be at par with that of the applicants herein. Apart from above, it is required to be noted that there are no criminal antecedents and the investigation in the matter is already complete and chargesheet is filed. The entire investigation is based on the circumstantial evidence and so far as accused – Alok Reddy is concerned, there is discovery under section 27 of the Indian Evidence Act. If such discovery is considered in the light of statement of witness – Rajkumar, Police Patil, who has discovered the dead body in a small nala and

the report of the Investigating Officer to the Magistrate, for the purpose of addition of section 302, 201, 120-B of the Indian Penal Code, it is required to be noted that the discovery as is claimed was well within the knowledge of the Investigating Officer, who in clear terms admitted in the report referred supra. Apart from above, it is to be noted that the role attributed to the accused – Ishwar is only to the extent of kidnapping, hence section 34 of the Indian Penal Code is added in the matter. The role attributed to Alok appears to be at par with the role attributed to the accused – Suraj, who is already released on bail.

11. In view of above, in my opinion, the further detention of the applicants is not necessary. The applicants are entitled to be released on bail. Hence, the following order :-

ORDER

12. The applicants be released on bail in Crime no. 47 of 2015 registered with Jalkot Police Station, Tq. Jalkot, Dist. Latur for the offences punishable under section 302, 201, 120-B, 363, 365, 341 r/w. 34 of the Indian Penal Code, upon their executing P.R. bonds in the sum of Rs.25,000/- (Rs. Twenty Five Thousand) each with one surety each in the like amount.

13. The applicants shall not tamper with the prosecution witnesses in any manner.

14. The applicants shall co-operate with the learned Sessions Judge in deciding the matter.

15. Any attempt on the part of the applicants to protract the trial, if noticed by the learned Sessions Judge, it shall be open for the learned

Sessions Judge to proceed with the cancellation of bail of the applicants.

16. Criminal Applications stand disposed of accordingly.

[N.W. SAMBRE]
JUDGE

arp/-