

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 3346 OF 2016

SHANKAR S/O DHONDIRAM KADAM
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr Venjane Tukaram M.
APP for Respondents: Mr S J Salgare

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**WITH
APPLN/3076/2016**

NIMICHAND SAMBHAJI BHOKRE
VERSUS
THE STATE OF MAHARASHTRA.

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**WITH
APPLN/3327/2016**

SHRI @ SHRINIVAS KERBA SHINDE
VERSUS
THE STATE OF MAHARASHTRA

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Mr R B Narvade Patil Advocate for applicant.
Mr.S J Salgare APP for Respondent State.

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CORAM : V.K. JADHAV, J.
Dated: July 18, 2016

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ORAL ORDER :-

1. Heard the learned counsel for the applicants and the learned APP for the Respondent-State. Perused the charge sheet.

2. On the basis of the report lodged by one Dilip Kondawar, Crime bearing No.47/2015 came to be registered

at Police Station Jalkot, District Latur for the offences punishable u/s 363, 365, 341, 34 of the Indian Penal Code and subsequently u/s 302, 201, 129(B) of Indian Penal Code came to be added. It has alleged in the complaint that, accused Govind, Baban and Kishor alongwith other accused persons in furtherance of their common intention and by making a conspiracy in this regard kidnapped the son of the informant namely Rohit Kondawar and subsequently murdered him. The applicants preferred this application for getting release on bail. Their applications for similar prayer came to be rejected by the Sessions Court.

3. Learned counsel for the applicant/s submits that, prosecution case entirely rests upon the circumstantial evidence and prima facie there appears no chain of circumstantial evidence pointing out the involvement of the applicants in the alleged crime. Learned counsel submits that, the accused persons named in the FIR have been released on bail and also some other accused persons arrested during the course of investigation also came to be released on bail. Learned counsel for the applicant in Criminal Application No.3346/2016 submits that, allegations so far as made against Shankar Kadam are concerned, those are restricted to the extent of kidnapping of deceased Rohit.

Learned counsel submits that allegations made against some other accused persons to the extent of kidnapping and murder are concerned, those accused persons came to be released on bail.

4. The learned APP submits that, there is circumstantial evidence in the form of last seen together and there is chain of circumstantial evidence prima facie indicating involvement of all the applicants in the alleged crime. Learned APP further submits that so far as applicant Shri @ Shrinivas Shinde in Criminal Application No.3327/2016 is concerned, he is a habitual offender and he has no fixed place of residence. He came to be arrested on 12.4.2016 and till that time he remained absconded.

5. It appears that, one of the accused Suraj Bhagwan Khirade came to be released on bail by this Court by order dated 21.4.2016 in Criminal Application No.1796/2016. Furthermore, accused Ishwar Panchal in Criminal Application No.2677/2016, Vajjnath Lavhrale in Criminal Application No.2807/2016 and one Alok Reddy in Criminal Application No.2660/2016 came to be released on bail by this Court by common order dated 14.6.2016 in the aforesaid criminal applications.

6. So far as applicant Ishwar in the aforesaid application is concerned, he was driver of the Scorpio in which deceased Rohit alleged to have been kidnapped. So far as the applicant Alok Reddy in the aforesaid Criminal Application is concerned, there are allegations about him that he gave contract for murdering deceased Rohit to other accused persons. It appears that, even though serious allegations have been made against those applicants, they have been released on bail with the observation that prosecution case entirely rests upon the circumstantial evidence add that *prima facie* there appears no chain of circumstantial evidence to point out the guilt of the applicants in the said criminal applications.

7. In the present applications also the learned APP has pointed out statement of one Baliram More while opposing the application of applicant Shankar Kadam. I have carefully gone through the statement of Baliram More which is recorded by the Investigating Officer after a considerable delay. Said Baliram is the owner of one Hotel and according to him on 18.12.2015 some four persons came to his hotel for taking meals. The applicant Shankar Kadam was amongst them. He did not notice that deceased Rohit was with them at that time. Learned APP has further pointed out statement of

one Santosh Dongare which came to be recorded belatedly i.e. on 29.12.2015. He has stated about the role played by the applicant Shri @ Shrinivas. Except this statement, there is no further connecting evidence against the applicant Shri @ Shrinivas. At this stage, it cannot be said that there is no chain of circumstantial evidence. Prosecution may establish the same during the course of trial, however, what appears from the charge sheet is that there is a scattered evidence against the applicants'.

8. The learned APP further submits that, said Shri @ Shrinivas has no fixed place of residence and his antecedents are not clear. The applicant Shri @ Shrinivas is a student by occupation. He has fixed place of residence. Only because that he came to be arrested on 12.4.2016 and till that period he remained absconded is not sufficient to draw an inference that he will not be available for trial.

9. In view of the above discussion, by imposing certain conditions, I am inclined to release all the applicants on Bail. Hence, following order is passed.

O R D E R

I. Criminal Application No.3346/2016 (Shankar Kadam

Vs. State), Criminal Application No.3327/2016 (Shri @ Shrinivas Shinde Vs. State) and Criminal Application No.3076/2016 (Nimichand Bhokre Vs. State) are hereby allowed.

II. The applicant Shankar s/o Dhondiram Kadam in Criminal Application No.3346/2016, applicant Shri @ Shrinivas Kerba Shinde in Criminal Application No. 3327/2016 and applicant Nimichand Sambhaji Bhokre in Criminal Application No.3076/2016 be released on Bail in Crime No.47/2015 registered with Jalkot Police Station, Tq. Jalkot, District Latur for the offences punishable u/s 302, 201, 120-B, 363, 365, 341 r/w 34 of the Indian Penal Code, upon their furnishing P.B. Of Rs.25,000/- (Rs. Twenty Five Thousand) each with one solvent surety of the like amount each on the following conditions :-

- i] The applicants shall not tamper the prosecution evidence in any manner and make themselves available as and when required by the Investigating Officer.
- ii] The applicant Shri @ Shrinivas in Criminal Application No. 3327/2016 shall attend the concerned Police Station once in a Week i.e. on every **MONDAY** between 09.00 am to 11.00 a.m. till further orders of this Court.

III. All the applications are accordingly disposed of.

(V.K. JADHAV, J.)

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