

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.9 OF 2016
IN
CRIMINAL APPEAL NO.718 OF 2014

Amit Umakant Sharma		Applicant
<i>Versus</i>		
State of Maharashtra		Respondent

Ms. Ameeta Kuttikrishnan, Appointed Advocate,
for the Applicant.

Mr. H.J. Dedia, A.P.P., for the Respondent-State.

CORAM : SMT. V.K. TAHILRAMANI &
DR. SHALINI PHANSALKAR-JOSHI, J.J.

DATE : 16TH FEBRUARY 2016.

P.C. :

1. This is an application for bail preferred by Original Accused No.1 in Sessions Case No.2 of 2013, who has been convicted for the offences punishable under Sections 302, 201 and 120-B of IPC, for which the maximum punishment imposed on him is of life imprisonment.

2. As per learned counsel for the Applicant, there is no convincing or reliable evidence on record against the Applicant as the case of the prosecution is based on the circumstantial evidence. Secondly, it is

submitted that co-accused No.2 Shashikant is already released on bail by this Court vide order dated 4th April 2014 in Criminal Application No.379 of 2014 in Criminal Appeal No.1289 of 2013. Hence, on the ground of parity, the Applicant is also entitled to be released on bail.

3. However, in our considered opinion, the benefit of parity cannot be extended to the Applicant as the case of the present Applicant and co-accused No.2 stand on different footings. The strong circumstance relied upon by the prosecution against the present Applicant is discovery of the dead body of Ganesh at the instance of the present Applicant. PW-4 Panch Madhu Nair has deposed about the disclosure statement made by the Applicant, which led to discovery of the dead body of Ganesh wrapped in a mat and bed-sheet and found in Nala.

4. The second circumstance against the Applicant is that of deceased last seen in the company of the Applicant by two witnesses, namely, PW-3 the Watchman of the Society, Navram Sharma and PW-6 Mahesh Varud, who was with the Applicant on that particular night. There is also the evidence of PW-4 Madhu and PW-6 Mahesh that, after consuming the soup brought by the present Applicant, deceased Ganesh vomited and started feeling giddiness. The fact that the Applicant brought soup for

Ganesh has been established by the prosecution through the evidence of PW-10 Nilratan Das.

5. In our considered opinion, in view of this overwhelming evidence on record, the request of the Applicant to release him on bail cannot be granted. As to the ground of parity also, his case stands on a different footing from that of co-accused No.2 Shashikant. Except for recovery of the blood stained clothes and seizure of some mobiles and scissor, there was no other connecting link establishing his complicity in the offence. As against it, in respect of the present Applicant, there is strong prima facie evidence on record, coupled with the fact that during pendency of the trial also, he was not on bail. Hence, the application stands dismissed.

[DR. SHALINI PHANSALKAR-JOSHI, J.]

[SMT. V.K. TAHILRAMANI, J.]