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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 419 OF 2016

Mrs. Kavita alias Bindu Shridhar Nayar

..Applicant.

Vs.

The State of Maharashtra

..Respondent

Mr. Rajiv Patil, Senior Counsel i/b T.R. Vispute, for Applicant.

Ms. Rutuja Ambekar APP for State.

CORAM: A.S. GADKARI, J.

DATE : 5th October 2016.

P.C.

1 This is an application under Section 439 of Cr. P.C. for bail in CR No.I-76 of 2015 registered with Kasa Police Station, District-Palghar dated 12.7.2015 under Sections 302, 201 and 120(B) of the Indian Penal Code.

2 Heard the learned counsel for the applicant, the learned APP and also perused the entire chargesheet annexed to the present application.

3 The first information report is lodged by Shri Ganesh D. Sawar against an unknown person. It stated in the said report that, on

12.7.2015 in the morning the people from his village informed him that a dead body of an unknown person was lying on road side adjoining Modgaon on the Dhundalwadi Udhwa road. It was informed that the throat of the said person was cut with some weapon and the body was partly burnt. The first informant therefore rushed to the said spot, observed the dead body of unknown person and subsequently lodged the first information report. After lodgment of the first information report, the police conducted investigation. During the course of investigation, it was revealed to the police that the name of the deceased was Jaykrushnan Sridharan Nayar and the applicant in conspiracy with other two accused persons namely Ram Jadhav and Pravin Misal committed his murder and with a view to destroy the evidence initially threw the body on the scene of offence and subsequently tried to burn it. During the investigation, it was further revealed that the deceased used to harass the applicant over the ancestral property of their father. That though the applicant was divorcee was having love affair relations with accused No.1 Ram Jadhav. That the applicant gave contract to Ram Jadhav and Pravin Misal for committing the murder of the deceased. The applicant came to be arrested on 15.7.2015. After receipt of relevant reports from various agencies, the police submitted chargesheet in the Court of competent jurisdiction on 21.9.2015.

4 The learned counsel for the applicant submitted that except the motive as propounded by the prosecution coupled with strong suspicion against the applicant, there is no other evidence on record to connect the applicant in the present crime. He submitted that when the statements of the material witness namely Smt. Shital Jadhav wife of the accused No.1 Ram Jadhav, Satyanathan Nayar, brother of the applicant and Smt. Parvatibai Nayar, mother of the applicant thereby mentioning the alleged motive and conspiracy are recorded by the police, the applicant and other co-accused were already in the custody of the police. He submitted that the alleged extra judicial confession is given by the accused No.1 Ram Jadhav in the presence of the police and particularly after the said accused No.1 Ram Jadhav was accosted and taken into custody by the police on 14.7.2015. He further submitted that the basis of the alleged motive is revealed from the statement of mother of the applicant dated 4.9.2015. The statement of the said witness i.e. mother of the applicant is recorded after 52 days from the date of discovery of the dead body of the deceased by the police and after approximately about 50 days from the date of arrest of the applicant and other co-accused by the police. He submitted that after taking into consideration the said vital lacune in the prosecution case as against the present applicant, the applicant deserves to be released on bail.

Per contra, the learned APP vehemently opposed the application and submitted that the prosecution has successfully connected the chain of circumstances. She submitted that the statement of mother of the applicant Smt. Parvati Nayar though recorded belatedly, the same inspires confidence, as it is trustworthy and reliable. She further submitted that the motive behind the present crime revolves around the applicant only and therefore the present application may be rejected.

5 After perusing the entire chargesheet, it prima facie appears that the statements of the relevant witnesses are recorded by the police after police came to know about the fact of murder of the deceased Jaykrushnan S. Nayar, the accused and the motive behind the crime on 14.7.2015 before 7.00 p.m. itself. That the statements of the witnesses namely Satyanathan S. Nayar, brother of the applicant and Smt. Parvatibai Nayar, mother of the applicant make it apparently clear that the applicant is the conspirator in the present crime and no active role is attributed to her in the commission of the murder of deceased Jaykrushnan S. Nayar. In view of the peculiar facts and circumstances of the present case, coupled with the fact that the applicant is a lady and she is in jail since 15.7.2015, I am inclined to release the applicant on bail.

6 Hence, the following Order:

(i) The applicant be released on bail in CR No.I-76 of 2015 registered with Kasa Police Station, District-Palghar on her furnishing PR bond of Rs.25,000/- with one or two solvent local sureties in the like amount.

(ii) After her release from the jail, the applicant shall attend the Kasa Police Station on every First Monday of the month between 11.00 a.m. to 2.00 p.m.

(iii) The applicant shall also attend all the dates before the Trial Court.

(iv) Any two consecutive defaults in complying with the aforesaid conditions, shall attract the provisions of cancellation of bail.

(v) The applicant shall not tamper with evidence and/or influence the prosecution witnesses.

7 The Application is allowed in the aforesaid terms.

(A.S. GADKARI,J.)