

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRI. BAIL APPLICATION NO. 423 OF 2016

Umesh Mahadeo Shinde ... Applicant.

V/s.

The State of Maharashtra ... Respondent.

WITH

CRI. BAIL APPLICATION NO. 808 OF 2016

Balika Chandrasen Ghute ... Applicant.

V/s.

The State of Maharashtra ... Respondent.

Mr. Pramod N. Patil, Advocate for the Applicant in BA No. 423/2016.

Mr. Arfan Sait, APP for the State in BA No. 423/2016.

Ms. Pranali Kakade, Advocate i/by Subhash Hulyalkar,
Advocate for the Applicant in BA No. 808/2016.

Mrs. Veera Shinde, A.P.P. for the Respondent – State.

CORAM : A. M. BADAR, J.

DATE : 01st JULY, 2016

P.C. :

1 Both applicants i.e. applicant-Umesh Shinde in Bail Application No. 423 of 2016 and applicant-Balika Ghute in Bail Application No.808 of 2016 who are accused nos. 2 and 6 respectively in Crime No. 264 of 2015, registered with Yawat

(Rural) Police Station, Tal. Baramati, Dist. Pune, for the offences punishable under sections 302, 201, 120(B), 143, 147, 148, 149 r/w. Section 34 of the Indian Penal Code, at the instance of informant - one Govind Popat Shinde, by these applications are praying for releasing them on bail during pendency of the trial.

2 Heard both the learned counsel appearing for both Applicants/accused. They argued that applicant-Umesh Shinde is owner of the pickup van and the role attributed to him is the use of his pickup van in his presence for murdering Chandrashen Ghute and for disposing of his dead body. Learned counsel for applicant-Umesh argued that in fact the vehicle was taken for transportation of some goods by engaging Govind Shinde, as a driver. It is further argued that the applicant-Umesh had accompanied the vehicle as the owner thereof and his role cannot be seen in the crime in question from the chargesheet.

3 Learned counsel for the applicant-Balika Ghute argued that Balika is the wife of deceased-Chandrasen Ghute. The deceased was addicted to liquor and used to subject Balika to cruelty. Learned counsel argued that by taking this factual aspect as a motive, Balika is implicated in the crime in question.

4 I have also heard the learned APP for the State. Learned APP argued that applicant-Umesh Shinde had taken active role in the crime in question, as he had engaged a driver for his pickup van on the pretext of transportation of some goods and carried that pickup van to the spot, where co-accused had brought - Chandrasen Ghute for committing his murder. Learned APP further argued that as seen from the statement of the informant, the present applicant handed over tommy to the co-accused for murdering the deceased. Thereafter, dead body was lifted by the present applicant alongwith the co-accused for putting it in the pickup van. Learned APP further argued that the entire episode of killing Chandrasen was at the instance of the applicant Balika Ghute and she is the person who had taken advantage of finishing the deceased.

5 Perused the chargesheet and the FIR lodged by Govind Shinde on 25.08.2015 with Dhoki Police Station, Tal. & Dist. Osmanabad. Thereafter it was transferred to police station Yawat on 26.08.2015 and as such Crime no. 264 of 2015 came to be registered. The FIR reveals that the present applicant is owner of the pickup van bearing no. MH-24-7032. The present applicant on 05.08.2015 called Govind Shinde for driving pickup van by informing him that order of transport of some goods is received by him. Statement of the informant – Govind Shinde goes to show that the present applicant

accompanied by three other accused persons took that pickup van to the Ghat at Gallor Road at about 10 p.m.. There they met other accused persons namely – Govind Shinde, Pandurang Shinde, Anant Bhajandas Survate and Ganesh Pandurang Shinde with Chandrasen Ghute (since deceased). As per the version of the informant, two of the inmates of the pickup van namely, Pandurang Shinde and Anant Bhajandas Survate alighted from the pickup van and on instructions from the accused - Ananat Survate, the pickup van was taken ahead and parked at a distance of 4 kilometers from the spot. Subsequently, on getting phone call from accused - Anant Survate, the pickup van, driven by the informant, again came back to the spot. At that time, the informant and the present applicant saw Chandrasen Ghute lying on the ground with his face smeared with blood. Accused - Ganesh Shinde insisted them to put Chandrasen Ghute in the van. Recitals in the FIR shows that at that time the informant as well as the present applicant resisted this proposal of accused Ganesh Shinde. However, ultimately the deceased was put in pickup van by the co-accused and thereafter, the dead body was thrown in the Ghat by the co-accused persons viz. Ganesh and Govind Shinde, Anant Survate and Dhananjay Pawar while undertaking the return journey.

6 This first version about the incident coming from the mouth of the informant belatedly shows that the present

applicant-Umesh Shinde, who was owner of the pickup van resisted the proposal of the accused persons for putting the deceased in the pickup van. In subsequent statement, the informant had attributed additional role of handing over tommy to co-accused and lifting the dead body by the present applicant-Umesh Shinde.

7 So far as the applicant-Balika Ghute is concerned, statement of the mother of deceased namely Kashibai Ghute goes to show that deceased-Chandrasen was addicted to liquor and he had been consistently torturing his wife-Balika. Statement of Kashibai further shows that despite understanding given to her son-Chandrasen, he did not mend his ways to treat his wife. According to the prosecution case, murder of Chandrasen was at the instance of Balika. It is seen that accused-Dhananjay Pawar is brother of the applicant-Balika. Co-accused Govind Shinde and Ganesh Shinde are brother-in-law of the accused-Dhananjay Pawar. They have played major role in murdering Chandrasen, as prima facie seen from the chargesheet. However, that fact alone is not sufficient to jump to the conclusion that it was at the instance of the present applicant-Balika Ghute. One may conceive a situation that looking to harassment suffered by his sister, the brother may take independent decision of eliminating the husband of his sister with the help of the co-accused. The chargesheet shows that despite sustaining torture and

harassment at the instance of her husband-Chandrasen Ghute, applicant-Balika continued to cohabit with him and she resided with him at different places where-ever he used to stay.

8 Considering all this nature of the evidence against both applicants/accused, their pre-trial detention is not warranted and, therefore, the following order :

ORDER

- i. Both the bail applications are allowed.
- ii. Both applicants/accused in Crime No. 264 of 2015, registered with Yawat (Rural) Police Station, Tal. Baramati, Dist. Pune, for the offences punishable under sections 302,201,120(B),143,147,148,149 r/w. Section 34 of the Indian Penal Code, be released on bail on their executing PR Bond of Rs. 10,000/- each and on furnishing solvent surety in the like amount by each of them.
- iii. As a condition of this order, Applicants/accused should co-operate the trial court in expeditious disposal of the trial.
- iv. In addition, Applicants/accused are directed that they shall not directly or indirectly make any

inducement, threat or promise to any person acquainted with the facts of accusation against them so as to dissuade such person from disclosing such facts either to the Court or to any police officer and that applicants shall not tamper with the prosecution evidence in any manner.

- v. Applicants should not commit offence of similar nature in future.
- vi. Both the applications are disposed of accordingly.

(A. M. BADAR, J.)

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