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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.436 OF 2016

Tarif Khan Insan Ali	 Applicant
V/s.	
The State of Maharashtra	 Respondent

Mr. Nizamuddin Khan, for the Applicant.
Mrs. Veera Shinde, APP for the Respondent State.

CORAM : A. M. BADAR, J.

DATE : 5th JULY, 2016.

P.C. :

1. The applicant/accused in Crime No.131 of 2013, for offence under Sections 302, 201, 394, 411, 414 read with 34 of the Indian Penal Code, registered with Chandwad Police Station, District: Nashik, by this application is seeking bail.

2. Heard the learned counsel for applicant. He pointed out the order passed by this Court on 16th February, 2015 by which this Court had requested the learned Sessions Judge seized with the trial to make endeavour to conclude recording of evidence within one year from the date of framing of charge.

3. The learned counsel for applicant argued that as yet even charge is not framed and therefore, the applicant/accused is entitled for release on bail.

4. The learned APP opposed the application contending that in this case based on circumstantial evidence, Investigating Officer has collected sufficient evidence to show involvement of the present applicant in the offence punishable under Section 302 of Indian Penal Code. Perused case diary. According to case of prosecution, Mohammed Muddasir Mohammad Siddique was driver of the tanker transporting acetone. It is the prosecution case that in the night between 6th and 7th September, 2013 present applicant alongwith co-accused murdered Mohammed Muddasir Mohammed Siddiqui and then sold acetone to accused No.4 Vikas Khandale. It is further averred by the prosecution that accused knowing about commission of offence punishable under Section 302 of IPC, destroyed evidence of the crime in question by throwing dead body in a dam.

5. Witness Ravindra Jadhav in his statement under Section 161 of Code of Criminal Procedure, has stated that two persons brought the tanker containing acetone on 8.9.2013 had kept 35 barrels in the godown. This witness has identified the present applicant so also co-accused as persons, who brought tanker to the godown. Witness Sanjay

Patil disclosed to the Investigating Officer that on 8.9.2013, two persons brought tanker and abandoned it on Surat High Way. This witness has identified the present applicant and co-accused on 22.12.2013.

6. In the test identification parade witness Ravindra Jadhav had identified the present applicant as person, who brought tanker containing acetone to the godown of his employer Dhirendra Pratap @ Dimple, who is also accused in the incident in question.

7. At the instance of present applicant Acetone worth Rs.5,84,520/- came to be seized during investigation.

8. It is seen that deceased Mohammed Muddasir Mohammad Siddique died homicidal death because of asphyxia due to manual strangulation. Chain of circumstances is prima facie pointing out the accusation figuring at the present applicant. Though co-accused has been released on bail, but so far as present applicant is concerned, there is evidence of identification as well as recovery against him, as such no case for bail is made out. The application is, therefore, rejected.

9. At hearing of this application, as pointed out by the learned counsel for the applicant, it is noted that on 10th February, 2015, this Court (Coram: Smt. Sadhana S. Jadhav, J.), has passed order for expediting the recording of evidence in the Sessions Court. Paragraph No.2 of the order dated 10th February, 2015 in Criminal Bail Application No.2405 of 2014

reads thus :-

“2. Liberty as prayed for is granted in the interest of justice. However, learned Sessions Judge seized with the trial in crime No.131 of 2013 registered at Chandwad Police Station is requested to make an endeavour to conclude the recording of evidence within one year from the date of framing charge”.

10. On behalf of applicant, bail is insisted with a reason that despite order of this Court to conclude recording of evidence within one year as yet no charge is framed. Hence this Court (Coram: Revati Mohite Dere, J.) on 6th May, 2016, directed the office to call for a report from the learned Sessions Judge, Niphad, District:Nashik, with regard to the status of Sessions trial and as to why the trial could not be concluded as directed by this Court on 10th February, 2015. The relevant portion of order reads thus:-

“Learned counsel for the applicant submits that despite directions given to the trial Court to complete the trial as expeditiously as possible and preferably within one year from the date of framing of charge, till date there is no progress in the trial. He submits that as co-accused are not attending the case, the trial is being delayed. A report be called for from the learned Sessions Judge, Niphad, District: Nashik in S.C.No.20 of 2014, with regard to the status of the said case, as to why the trial could not

concluded, as directed vide order dated 10.2.2015”.

11. As per directions of this Court, by above order, the learned District Judge-1 and Additional Sessions Judge, Niphad has sent status report vide letter dated 21st June, 2016. The relevant portion of said report reads thus :-

“It is further submitted that on perusal of report of concerned clerks, it appears that they have verified concerned Writ Register and Case Register and submitted the report that, no writ from the Hon'ble High Court has been received to this Court directing to conclude the trial of Session Case No.20/2014 as expeditiously as possible and preferably within a period of one year from the date of framing of charge.

12. It is, thus, seen that the order of this Court passed in Criminal Bail Application No.2405 of 2015, has not been communicated to the learned Sessions Judge for its compliance. Therefore, the (Registrar (Judicial-I) to make necessary enquiry and put up his report before the Registrar General of this Court, for taking necessary action, if any against erring officials who failed to communicate the order dated 10th February, 2015 to the learned Additional Sessions Judge, Niphad.

[A. M. BADAR, J.]