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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.399 OF 2016

Navnath Ankush Dhene	 Applicant
V/s.	
The State of Maharashtra	 Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO.691 OF 2016

Vishal Babasaheb Gaikwad	 Applicant
V/s.	
The State of Maharashtra	 Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO.709 OF 2016

Dinesh Jagdish Dahibhate	 Applicant
V/s.	
The State of Maharashtra	 Respondent

Mr. Satyavrat Joshi, for the Applicant, in Application No.399 of 2016.
Mrs. Anjali Patil, for the applicant in Application No.691 of 2016
Mr. KiranJain, a/w Ms. Amita Kamble, I/by Kiran Jain & Co. for applicant in B.A.No.709 of 2016
Mr. Arfan Sait, APP for the State in B.A.No.399 of 2016 and 691 of 2016.
Mr. Deepak Thakery, APP for the Respondent State in Application No.709 of 2016.
Mr. R.P. Kshirsagar, PSI Warje Malwadi Police Station, Pune.

CORAM : A. M. BADAR, J.

DATE : 15th JULY, 2016.

P.C. :

1. Applicant Navnath Dhene (Application No.399 of 2016), applicant Vishal Gaikwad (Application No.691 of 2016) and applicant Dinesh Dahibhate (Application No.709 of 2016), in Crime No.10 of 2015, registered with Warje Malwadi Police Station, for offences punishable under Sections 143, 147, 148, 149, 302, 120(B), 201 of the Indian Penal Code, under Sections 3, 4, 25, 27 of the Arms Act and under Sections 37(1), 135 of the Maharashtra Police Act, by these applications are praying for releasing them on bail, during pendency of trial.
2. Heard the learned counsels appearing for the applicants/accused.
3. The learned counsel for applicant Navnath Dhene by pointing of statements Vishal Jadhav and Prafulla Ramdas Hatte, argued that applicant Navnath cannot be said to be a person who had taken part in the conspiracy to eliminate deceased Sachin Shinde. Applicant Navnath is mere servant of Vishal Jadhav, who is not even made accused in the instant case.
4. The learned counsel appearing for applicant Vishal Gaikwad argued that Vishal Gaikwad was one of the passerby from the road and he was not part of the assembly who assaulted the deceased. The learned counsel further argued that Vishal Gaikwad can at the most be held liable

for offence punishable under Section 201 of the IPC which is bailable offence.

5. The learned counsel appearing for Dinesh Dahibhate argued that the entire case of prosecution against Dinesh Dahibhate is based on statements of Sanket Bavkar. By reading the statement of Sanket Bavkar, it is argued that Sachin Shinde (since deceased) had called Sanket Bavkar at 5.00p.m. for the purpose of accompanying Sanket for dinner at Nanded area, Haveli Taluka. The learned counsel argued that in fact at about 4.30 p.m. on that day, present applicant Dinesh Dahibhate had called Sanket and informed Sanket that he will follow Sanket at the venue where dinner programme is arranged. The learned counsel further argued that the role attributed to applicant/accused in the chargesheet is merely leaving the deceased to the spot after attending dinner programme at Nanded. Mere leaving the deceased on the spot where his motorcycle was parked cannot attribute any criminal liability to applicant Dinesh, who is a young boy. The learned counsel argued that applicants are behind the bar since long and there is no possibility of taking up trial.

6. The learned APP opposed the application by contending that the instant case is a case of honour killing and complicity of applicants is well established in the crime.

7. Perused the chargesheet. This is one more case of honour

killing; wherein son-in-law was done to death by parental relatives of the wife. Accused Shubham Dhawade is brother of Neha, who married Sachin Shinde (since deceased) on 4.3.2013. The marriage of Neha with Sachin was a love marriage. It was against the wishes of her parental relatives. Her brother Shubham was friend of Sachin Shinde (since deceased).

8. According to prosecution case, accused, who are parental relatives of Neha and their friends, have hatched a conspiracy to eliminate Sachin Shinde and the plan was actually executed on 6.1.2015, near Akshay Palace Society at Warje Bridge square at Pune.

9. Sachin Kale, Pratik Pasalkar, Ganesh Rajiwade are the eye witnesses to the incident in question. Sachin Kale was knowing the deceased as well as accused Shubham Dhawade. On 6.1.2015 at about 10.15 p.m. he alongwith witness Pratik Pasalkar were returning to their house. While passing through Warje High way square, they heard sound of gun shots. They saw Shubham Dhawane, Amey Marane, Nakul Khade, Chetan Pawar, Murli Khandagale, Akash Sonawane and Yogesh Shingade, assaulting Sachin Shinde. They also saw accused No.7 Shahenshah Lokhande dancing on the scene of offence by making gestures by hands. Both these witnesses also saw accused Vishal Gaikwad, applicant in Application No.691 of 2016, standing by the side,

keeping the engine of his motorcycle in running condition. As per version of this witness, after brutally murdering Sachin Shinde by means of firing gun shot as well as by giving blows of Sattur they fled away from the spot. Similarly Murli Khandagale and Yogesh Shingade sat as pillion rider on motorcycle of applicant Vishal Gaikwad for leaving scene of offence.

10. The role of applicant Navnath Dhene is stated by witness Vishal Jadhav and Prafulla Hatte. Vishal Jadhav is friend of accused Amey Marne, Shubham Dhawade, Nakul Khade as well as Shahensha @ Viashal Jaysing Lokhande. Vishal Jadhav was taken to Akshay Palace society by accused Amey Marne. Then Vishal Jadhav called Prafulla Hatte and asked him to bring Navnath Dhene. Accordingly Prafulla brought applicant Navnath Dhene at Akshay Palace society. This happened at about 7 to 8 p.m on 6.8.2015. It is seen from the chargesheet that initially accused Amey Marne had asked witness Prafulla Hatte to remove petrol pipe of Karishma motorcycle parked there which is stated to be that of the deceased. On refusal by witness Prafulla Hatte, accused Amey Marne thereafter directed applicant Navnath Dhene to remove petrol pipe of that motorcycle. Accused Ameya Marne had informed applicant Navnath that he want to play a prank as the Karishma motorcycle is belonging to his friend.

11. Statements of witnesses show that initially applicant Navnath

asked his employer i.e. witness Vishal Jadhav *as to what should be done*. Thereafter applicant Navnath Dhene removed petrol pipe of Karishma motorcycle. Statement of witness shows that after removing of the petrol pipe of Karishma motorcycle, witnesses Vishal Jadhav, Prafulla Hatte, applicant Navnath and one person named Kanak went to Karve Nagar area and they were at Durga cafe till 11.15 p.m.. This is the material collected by prosecution against applicant Navnath. Prima facie this material does not show any participation by applicant Navnath in the conspiracy to eliminate Sachin Shinde. Otherwise he would not have asked his employer *as to what should be done* in the matter. Applicant Navnath had not been to the spot on his own, but he was called at that place by his employer Vishal Jadhav who is not even arraigned as an accused in this case. Subsequently also applicant Navnath accompanied by his employer and friends of his employer to Karve Nagar area. Navnath was made to understand that it was just a prank.

12. So far as applicant Vishal Gaikwad is concerned, material collected by the prosecution in essence points out that he was standing on the spot with his motorcycle in running condition to facilitate remaining accused persons to run away from the spot soon after the job of murdering Sachin is done. Accordingly accused Murli Khandagale and Yogesh Shingade occupied pillion seats of the motorcycle of Vishal

Gaikwad to flee from the spot. Prima facie applicant Vishal Gaikwad does not appear to be a mute spectator as suggested.

13. So far as the applicant Dinsh Dahibhate is concerned, statements of witnesses given after watching the CCTV footage go to show that he dropped deceased Sachin Shinde on the spot of the incident and hurriedly went away from the spot in order to enable co-accused to commit his murder. Applicant Dinesh Dahiwade had followed the car of his relative in which the deceased was travelling to Nanded Area of Pune and after the dinner at that place while returning, applicant Dinesh had dropped the deceased at Akshay Palace society where immediately, the deceased was killed by co-accused. Prosecution is relying on Call Detail Record of applicant Dinesh in order to demonstrate that he was part of conspiracy to eliminate Sachin Shinde and had accordingly dropped the deceased on the spot of incident. The Call Detail Records of applicant Dinesh and accused No.7 Shahensha @ Vishal Lokhande goes to show that prior to the incident and soon after the incident, this applicant was in constant touch with accused No.7 Shahensha @ Vishal Lokhande. Shahensha Lokhande played active role in brutal assault of Sachin Shinde. Statements of witnesses show that at dinner programme at Nanded area when applicant Dinesh was present with deceased Sachin Shinde, applicant Dinesh was constantly speaking

on his cell phone and sending text to somebody. It is well settled that direct evidence is normally not available in order to prove the offence of conspiracy and the attending facts and circumstances are required to be considered for giving finding on this aspect. Constant telephone conversation of applicant Dinesh with co-accused Shahenshah Lokhande at the time of the incident speaks volume.

14. At pre-trial stage it cannot be said that there is no material against applicants Vishal Gaikwad and Dinesh Dahibhate to connect them with crime in question. While granting bail impact of crime on the society as well as circumstances in which the same is committed are relevant. The nature of crime is also important consideration while releasing accused persons on bail. Merely because applicants are behind the bar for some period cannot be a consideration for releasing them on bail. The case in hand reflects brutality and inhuman conduct of accused persons in killing Sachin Shinde. Merely because he married a girl from family of accused Dahibhate, he was done to death. Manner in which Sachin is killed can be seen from statements of Sachin Kale, Pratik Pasalkar, Ganesh Rajiwade.

15. For the reasons stated above, no case for bail is made out so far as applicants Vishal Gaikwad and Dinesh Dahibhate is concerned.

Hence following order.

Order

- I) The Application bearing No.399 of 2016 is allowed.
- II) Applicant Navnath Dhene, arrested in connection with above offence, be released on bail on his executing P.R. Bond in the sum of Rs.25,000/- and on his furnishing surety in the like amount.
- III) Applicant Navnath shall not, directly or indirectly, make any inducement, threat or promise to any persons acquainted with the facts of the case so as to dissuade them from disclosing such facts either to the Court or to any police officer.
- IV) Applicant Navnath shall attend the trial scrupulously and shall co-operate the trial Court in expeditious disposal of the case.
- V) Applicant shall not tamper with the prosecution evidence in any manner.

16. Criminal Application No.691 of 2016 filed by Vishal Gaikwad and Criminal Application filed by Dinesh Dahibhate are rejected.

[A. M. BADAR, J.]