

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 785 OF 2016

Ramhari S/o Vitthal Nannaware	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

Mr. Satyavrat Joshi, Advocate for the applicant.
Mr. Prashant Jadhav, APP, for the State.

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 16th September, 2016.

P.C.

1. This is an application under Section 439 of Cr.P.C. The applicant herein is arrested on 27.12.2014 in Crime No.299 of 2014 registered at Vimantal Police Station, Pune, for the offences punishable under Sections 302, 396 and 201 of the Indian Penal Code. The investigation is completed and charge-sheet is filed.

2. Heard the learned counsel for the applicant and the learned APP. Perused the compilation of the charge-sheet.

3. It appears from the records that on 14.12.2014, Deepak Narayan Sonawane had lodged a missing report in respect of his brother Kiran Sonawane at Vimantal Police Station, Pune. It was reported that on

that day, Kiran had left his house with the Xylo Car at about 10 a.m. He had informed his wife that he would return home on the next day by afternoon. However, he did not return and therefore the report was lodged. Deepak Sonawane had also given the cell phone number of Kiran Sonawane. The police had enquired about the call details of the said number. They had found one cellphone number 7557948807. They traced the said cell phone number to be that of Akshay Dalvi, resident of Khedekar Vasti, Khamgaon. Vasti Khamgaon. Akshay had informed that the said cellphone number was being used by his brother Sagar and that he has not at home since 15 days. The police had then requested Akshay to take Sagar into confidence and call him home. Accordingly Sagar was called home.

3A. The Police had then enquired with Sagar in respect of the missing complaint. Finally, he succumbed to the interrogation and disclosed that on 14.12.2014, he along with his brother and friends, including the present applicant, had caused homicidal death of Kiran Sonawane and had thrown the dead body in the River Karaa. Upon the said information, the dead body of Kiran Sonawane was traced. Kalpana Sonawane and Deepak Sonawane had identified the said body to be that of Kiran Sonawane. Offence was registered as No. 0 of 2014 for the offence

punishable under Sections 396, 302 and 201 of IPC. Since the offence had taken place in the jurisdiction of Vimantal Police Station, the matter was sent for investigation to Vimantal Police Station and Crime No.299 of 2014 was registered against the accused.

3B. It was also revealed in the course of investigation that a Xylo Car belonging to Kiran Sonawane was left in an abandoned condition and after a few days the car was towed by the present applicant and was abandoned in the jurisdiction of Osmanabad District. A report of the abandoned car was already given to the police station. The police had traced the trail of the complicity of all the accused persons, including the present applicant. The police had visited Osmanabad and had recorded the statement of the cousin of the present applicant. The police have also recorded the statement of one Vishal on 15.2.2015. He had informed the police that on 18.12.2014, two persons had requested him to tow a car on the pretext that the car had failed. The car was towed to the main road. It was the same car which was owned by the deceased Kiran Sonawane. It was also noticed that the present applicant had taken the car to the agricultural land of his grandfather Mahadev Shinde. The statement of the relatives of the present applicant would clearly indicate that on 15.12.2015, the present applicant had been to Tuljapur, Dist. Osmanabad. The

complicity of the accused is seen from the papers of investigation. There is sufficient incriminating material against the present applicant.

4. The learned counsel for the applicant submits that this is a case of circumstantial evidence. Moreover, the applicant has not been identified by the so-called eye-witnesses and hence, according to the learned counsel for the applicant, the investigation is completed and charge sheet is filed. Hence, he does not deserve to be enlarged on bail.

5. As against this, the learned APP has submitted that the alleged eye-witnesses are not the witnesses to the incident. That what all of them have stated is that the accused were shown to them on 25.12.2015 and that he had identified them to be the persons who had visited the Tea Stall on 24.12,2014. The statements of the eye-witnesses will indicate that the accused were shown to them. In any case, test identification parade is only a corroborative piece of evidence. The papers of investigation clearly indicate that there is sufficient incriminating material against the present applicant to establish his nexus with homicidal death of Kiran Sonawane. Hence, the applicant does not deserve to be enlarged on bail.

6. It is made clear that the observations made hereinabove are restricted to an application under section 439 of Cr.P.C. and the learned

Sessions Judge shall not be influenced by the above observations.

Application stands rejected.

(SMT.SADHANA S.JADHAV, J.)