

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 869 OF 2016

Shahanajar Mohammad Yasin	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr. Pranav H. Bhoite, Advocate for the applicant.
Mr. Y.M. Nakhwa, APP, for the State.

CORAM: SMT. SADHANA S. JADHAV, J.
DATE : 14th October, 2016.

P.C.

1. Heard. This is an application under Section 439 of Cr.P.C. The applicant herein is arrested on 19.11.2015 in Crime No.320 of 2015 registered at Yawat Police Station on 24.10.2015. The investigation is completed and the applicant is charge-sheeted for the offences punishable under Sections 302, 201 read with Section 34 of the Indian Penal Code.

2. It is the case of the prosecution that one Sandeep Hiralal Jain had lodged a missing report in respect of his uncle who had been to Village Kedgaon to purchase jaggery. That he had not returned home. It was also reported that his uncle Subhashchand Jain had informed him that since he

could not purchase jaggery at Pargaon, he had been to Kedgaon. Soon thereafter, the cellphone of his uncle was switched off and, therefore, there was no contact with him. The family members waited for him, but he did not return and hence they were constrained to file a report at the police station which was registered as Missing Report No.78 of 2015.

3. In the course of investigation, it was revealed that the dead body of Subhashchand Jain was found in an abandoned condition. The dead body was identified by the complainant. It was apparent that Subhashchand Jain had died a homicidal death.

4. Statement of Sandeep Jain was recorded on 24.10.2015. He disclosed to the police that his uncle was carrying Rs.2,50,000/- along with him and that Aslam Hasmat had caused homicidal death of his uncle in order to take away Rs.2,50,000/-. Aslam Hasmat is original resident of Uttar Pradesh and that he is the history sheeter. Aslam was arrested.

5. In the course of investigation, the involvement of the present applicant had surfaced. The compilation of the charge-sheet would show that Aslam was in the company of Subhashchand Jain on the day of the

incident. That he was moving on a motor-cycle. Thereafter, in the course of investigation, the motorcycle was recovered at the instance of the present applicant. It was revealed that a conspiracy was hatched by the present applicant along with Aslam and that they had caused the homicidal death of Subhchand Jain. The applicant herein happens to be the original resident of Uttarakhand.

6. The learned counsel for the applicant submits that his father is residing at Village Pargaon for the last 2 years and running a jaggery plant and that the present applicant is residing with his father. The learned counsel also submits that the father of the applicant is running a jaggery plant at the place owned by one Atul Bhosale. On 24.10.2015, the memorandum of the applicant was recorded under Section 27 of the Indian Evidence Act. The motor-cycle used in the commission of offence was recovered at his instance.

7. That there is recovery of Rs.50,000/- at the instance of the present applicant. The compilation of charge sheet would show that the amount which was recovered at the instance of the present applicant was concealed in Gat No.555. The learned counsel for the applicant submits that in fact, the recovery has been foisted upon the present applicant and

that the same cannot be relied upon for the purpose of denying bail. The compilation of the charge sheet would clearly show the involvement of the applicant in the present matter.

8. The learned APP rightly submits that the applicant is original resident of Uttarakhand and although his father is residing at Pargaon, the presence of the applicant cannot be ensured at the time of trial. Complicity of the applicant is writ large. Hence, the application of the applicant deserves to be rejected. The application is accordingly rejected.

9. The learned Sessions Court is requested to make an endeavour to expedite the trial and record substantive evidence, as far as possible within six months from the date of framing of charge.

(SMT.SADHANA S.JADHAV, J.)