

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1295 OF 2016

Sachin Vishnu Vakase and anotherApplicants
V/s.
The State of MaharashtraRespondent

Mr. V. M. Thorat i/b Mr. Ritesh Thobade Advocate for Applicants.
Mr. R. M. Pethe APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : 22nd NOVEMBER, 2016.

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicants herein are arrested on 23/01/2016 in crime no. 29 of 2016 registered at Solapur Taluka Police Station for offence punishable under sections 302, 364 r/w 34 of the Indian Penal Code. Investigation is completed and charge-sheet is filed.

2) It is the case of the prosecution that on 23/01/2016, Ram Dongare lodged a report at the police station alleging therein that on 22/01/2016, at about 10.30 a.m., he received an information from his cousin that the dead body of his brother Dattatraya Dongre was lying in the bushes in an abandoned condition. He verified the said information and lodged the report

ism

at the police station. When he was discussing the said issue, he was informed by the son of Dattatraya that on 20/01/2016, when he was returning home from school, he had seen his father in a Bolero jeep in Shivaji Chowk. He had also given an incomplete registration number as 0240. According to Saudagar, the son of deceased Dattatraya, Amol Gadekar, Deepak Deshmukh and two unknown persons were in the said jeep. He also had a dialogue with his father. Thereafter, his father had left in the said jeep along with Amol Gadekar and Deepak Deshmukh. On the basis of the said report, crime no. 29 of 2016 was registered at Solapur Taluka Police Station.

3) In the course of investigation, investigating agency had recorded the statement of one Abhijeet Jagtap who was running a pan stall in Shivaji Chowk. His statement was recorded on 27/01/2016 and he had disclosed to the police that on 21/01/2016, at about 5.00 p.m., Amol Gadekar had been to his pan stall as usual. He had alighted from the said jeep to purchase pan. At that time, Sachin Vakase i.e. present applicant no. 1 was driving the said jeep. He had also alighted from the said jeep and purchased tobacco from Abhijeet Jagtap. That Dinesh Kshirsagar had occupied the seat next to the driver. He knew them as they used to visit village Bibi Darphal quite often. He had also

stated that Dattatraya Dongre and Deepak Deshmukh were seated in the rear seat of the jeep.

4) It is pertinent to note that the dead body of Dattatraya Dongre was found at Bibi Darphal on the very next day i.e. on 22/01/2016. The Investigating Officer has also recorded the statement of Jamshed Inamdar who runs a Vada-Pav stall in village Bibi Darphal. He has disclosed that on every Thursday, there is local Bazar in the said village. According to him, on 21/01/2016 he had seen Deepak Deshmukh and Dattatraya Dongre in front of his stall at about 5.00 p.m. The jeep had come to the said stall. The jeep was being driven by the present applicant and Dinesh Kshirsagar was also in the said jeep. He had seen Dattatraya Dongre leaving the said spot along with present applicants and Amol Gadekar. The jeep has proceeded towards Kondirahuti. The witness Jamshed Inamdar has specifically stated that present applicants used to visit village Bibi-Darphal quite often and therefore, he was acquainted with them.

5) In the course investigation, it had transpired that the jeep belonged to Shivaji Bhise. His statement is recorded. He has specifically disclosed to the police that he was acquainted with Amol Gadekar as he owns a piece of land

just adjacent to the land of Shivaji Bhise. He had learnt from Amol Gadekar that Dattatraya Dongre had stolen the cable wire a week ago. On 21/01/2016 at about 11.00 a.m., Sachin Vakase and Dinesh Kshirsagar had borrowed the jeep from Shivaji Bhise on the ground that they wanted to go to village Bibi-Darphal. Late in the evening, they had returned the said jeep. At that time, Amol Gadekar had accompanied them. They had returned the keys of the jeep and without informing anything to anybody, they had left the house.

6) It is the case of the prosecution that Dattatraya Dongre was assaulted by all the accused persons with sticks. The learned counsel for the applicants submits that two unknown persons referred by the son of the deceased are Sachin Vakase and Dinesh Kshirsagar. The learned counsel for the applicants submits that the case of the prosecution be taken up without addition or subtraction and a reference is made to the post-mortem notes, more specifically to coloumn no. 17 which shows that the deceased had sustained as many 13 injuries in the nature of contusions and abrasions. According to the learned counsel, the deceased had not sustained any fracture and therefore, it can at the most be said that the deceased was assaulted only with an intention to teach him a lesson and nothing further and therefore, they deserve

to be enlarged on bail as offence under section 302 of the Indian Penal Code would not be attracted.

7) As against this, the learned APP has drawn the attention of this court to column no. 20 of the post-mortem notes and has submitted that the impact of the injuries was such that both the lungs had partially collapsed. It is also submitted that the impact of the injuries was fatal and has resulted into death. It is rightly submitted that the injuries in column no. 20 correspond with external injuries stated in column no. 17 and therefore, the cause of death is “Shock and haemorrhage due to multiple injuries”.

8) The case rests upon the statement of Shivaji Bhise who has specifically stated that the present applicants had borrowed the said jeep to visit village Bibi-Darphal. The statements of Jamshed Inamdar and Abhijeet Jagtap further fortify that the applicants were seen in the company of Dattatraya Dongre on the previous day after 5.00 p.m. That on the very next day, Dattatraya was found dead. There is a chain of circumstances which would substantiate that it was a pre-meditated act. Hence, application deserves to be rejected.

9) Application, being sans merits, stands rejected.

(SMT. SADHANA S. JADHAV, J.)