

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.1385 OF 2016**

Anandraj Jacob Nadar

...Applicant

Versus

The State of Maharashtra

...Respondent

...

Mr. Rabindra Nath Mishra for the Applicant.

Mr. P.H. Gaikwad-Patil, APP for the Respondent -State.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : 23rd DECEMBER, 2016.**

P. C. :

This is an application for bail filed by the aforesaid Applicant, who is an accused No.3 in Sessions Case No.142 of 2015 pending before the Sessions Court, Nashik, for the offences punishable under sections 363, 302, 201 and 118 of the IPC.

2. Heard the learned counsel for the Applicant and the learned APP for the Respondent -State.

3. The learned counsel for the Applicant has submitted that the earlier bail application was dismissed as withdrawn. He has submitted that there is no material on record to implicate the Applicant-accused No.3. He has further submitted that the panchanama, under which the body was allegedly recovered is not

admissible in evidence. He has stated that the alleged disclosure statement is vague. Furthermore, the body was recovered from an open place. The learned counsel for the Applicant stated that the accused Ekta Sharma, who is the main accused has been granted bail hence the Applicant is also entitled for bail on the ground of parity. He has further submitted that the Applicant had no motive for committing the offence. He submits that there is no material to show the involvement of the Applicant in commission of the offence and as such he is entitled for bail.

4. The learned APP submits that the offence is of a serious nature. He further submits that there is prima facie material to show that the deceased was abducted from her flat and thereafter she was bundled up and put in a dickey. He further submitted that the body of the deceased was recovered from the valley of Malshiras Ghat pursuant to the disclosure statement made by the Applicant-accused No.3. He further submitted that the mobile of the Applicant was also attached. The call details reveal that the accused No.1 Ashokkumar Sharma had called the Applicant on the date of the incident. He has further stated that the DVD of the CCTV footage near Krishna Hotel was attached and it prima facie shows that the Applicant was present near the said place

alongwith the other co-accused

5. I have perused the records and considered the submissions advanced by the learned counsel for the Applicant and the learned APP for the Respondent -State.

6. The records prima facie reveal that one Ekta Kailash Sharma, daughter-in-law of the deceased had lodged C.R. No.I-60 of 2015 alleging that on 5.2.2015 in the afternoon she had gone to meet the tuition teacher of her children. When she had returned, she saw a grey colour car leaving the compound. She had stated that her mother-in-law Shantidevi was not found in the flat and one white and blue colour bed sheet was also missing. Pursuant to the FIR lodged by Ekta Sharma, Crime No.I-60 of 2015 was registered for offences punishable under sections 302, 363, 364, 120-B and 201 of the Indian Penal Code. Accused No.1 Ashokkumar Sharma, brother-in-law of Ekta Sharma was arrested. Subsequently it was learnt that the first informant Ekta Sharma was also involved in the said crime and therefore, she was arrayed as an accused. In the course of the investigation the Applicant-accused was also arrested.

7. The statements of the witnesses viz. Jitbahadur Sunar, Umesh Deshmukh, Manisha Umesh Deshmukh, Brijbhuvan Jaiswal

were recorded. The statements of these witnesses prima facie reveal that one grey colour car had come inside the compound of the building. The statements of these witnesses particularly statement of Jit Bahadur reveals that the grey colour car similar to the car of the father-in-law of Kailash Sharma i.e. husband of Ekta Sharma was parked inside the compound. The statements of these witnesses reveal that they had seen two persons and one lady in the said car. The two persons had brought something wrapped in a white and blue colour bed sheet from the building wherein Ekta Sharma was residing and put the said bundle in the dickey of the said car.

8. The records reveal that Shantidevi was missing from the house since 5.2.2015. The disclosure statement as well as the panchanama dated 9th February, 2015 prima facie reveals that while the Applicant-accused was in custody he had disclosed that one body, which was wrapped in a bed sheet was thrown down from Malshiras Ghat. He had volunteered to show the place from where the body was thrown. Pursuant to the disclosure statement of the Applicant/ accused the decomposed body of the deceased Shantidevi was recovered from a valley of Malshiras Ghat. The body was identified by the son of the deceased.

9. Furthermore, the CDR records also prima facie indicate that the Applicant and the co-accused Ashok Sharma, whose bail application was also rejected on merit by order dated 27th November, 2015, had called the Applicant on the date of the incident i.e. on 5th February, 2015. Thus, the material on record prima facie shows the involvement of the Applicant in committing the crime.

10. It is pertinent to note that Ekta Sharma, who is one of the accused was released by this Court (Coram: Mrs. Mridula Bhatkar, J.) by order dated 17th August, 2015. A perusal of the said order indicates that while releasing Ekta on bail, the Court had taken into consideration the fact that said Ekta is a mother of two young children who are completely dependent on her. The said order therefore, does not help the Applicant in seeking bail on the ground of parity.

11. The offence is of serious nature. The trial has not yet commenced and all the material witnesses are yet to be examined. Considering the totality of the facts and circumstances, the Applicant is not entitled for bail at this stage. The application for bail is accordingly dismissed.

(ANUJA PRABHUDESSAI, J.)