

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1478 OF 2016

Dnyneshwar More

....Applicant

V/s.

The State of Maharashtra

....Respondent

AND
CRIMINAL BAIL APPLICATION NO. 1509 OF 2016

Akash Waghmare

....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Niranjan Mundargi A/W Mr. Pandit Kasar Advocate
for Applicant in BA 1478 of 2016
Mr. Pandit Kasar Advocate for Applicant in BA 1509 of 2016
Mr. Y. M. Nakhwa APP for the State in both matters.
Mr. Santosh Kate, A.P.I. Dighi Police Station, Pune City.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : SEPTEMBER 20, 2016.

PC :

1) Heard. These are applications under section 439 of Code of Criminal Procedure, 1973. Applicants herein have been arrested on 13/08/2015 in

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crime no. 126 of 2015 registered at Dighi Police Station for offence punishable under sections 302, 364, 201 r/w 34 of the Indian Penal Code. Investigation is completed and charge-sheet is filed. Case is committed to the court of sessions and registered as Sessions Case No. 731 of 2015.

2) It is the case of the prosecution that on 03/08/2015, Santosh Pacharne had lodged a missing report in respect of his brother Mangesh which was registered as Missing Report No. 110 of 2015. On 05/08/2015, in the course of enquiry of the missing complaint, the dead body of Mangesh Pacharne was found in the river bed of river Indrayani. The dead body was identified by his brother Santosh Pacharne.

3) It was apparent that Mangesh had died homicidal death. Crime no. 126 of 2015 was registered against unknown persons. On 05/08/2015 itself, A.D. No. 53 of 2015 was registered. Scene of offence panchanama and the inquest panchanama were conducted in A.D. enquiry and thereafter, on 05/08/2015 '0' crime was registered at Alandi Police Station, since the offence had taken place in the jurisdiction of Dighi Police Station, the case was transferred for investigation to Dighi Police Station.

4) On 12/08/2015, investigating officer had recorded the statement of one

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Vilas Shinde who had disclosed to the police that on 30/12/2010, Balasaheb Dumbre had abused him under the influence of alcohol over some previous dispute. He had pushed Balasaheb. On the next day in the morning at 10.00 a.m., Vilas Shinde was called upon by Bhosari Police Station since Balasaheb Dumbre had expired on the previous night. Present applicant had lodged F.I.R. Vilas Shinde had specifically stated that he had not seen the present applicant. It was specifically contended that he had no information or knowledge about the homicidal death of Mangesh Pacharne.

5) It is pertinent to note that on the same day i.e. on 12/08/2015, supplementary statement of Vilas Shinde was recorded. He had submitted that he knew Mangesh Pacharne. Mangesh had informed Vilas Shinde that he had threatened the present applicant that in any eventuality of implicating him (Mangesh) in the homicidal death of Dumbre, he would suffer dire consequences. It is also alleged that there were intermittent quarrels between Mangesh and Dnyaneshwar More i.e. present applicant. He therefore, expressed his suspicion that in all probabilities the present applicant had caused the homicidal death of Mangesh Pacharne.

6) The case is of circumstantial evidence. It is alleged by the prosecution

that applicant in criminal application no. 1509 of 2016 had purchased Maruti Car. That Akash Waghmare happens to be friend of applicant in criminal application no. 1478 of 2016. On 15/08/2016, Maruti car was found in an abandoned condition on the road. It is the case of the prosecution that the said car was recovered at the instance of the present applicant on 15/08/2016 and that there were blood stains in the said car. The samples have been drawn and have been sent for forensic tests. According to prosecution, applicants herein along with their associates had caused homicidal death of Mangesh and had abandoned the car on the road which was recovered at the instance of present applicant. According to the learned APP, another circumstance is that accused wer arrested on 13/08/2015 and at the time or arrest, they were having blood stains cloth on their person and there was no explanation for the same.

7) The learned counsel for the applicants rightly submit that it cannot be believed that applicants would be weiring blood stained clothes and moving around in the said area. The learned counsel further submits that as soon as the body was discovered, it was clear that Mangesh had died a homicidal death and yet accidental death was registered and preliminary enquiry was conducted in A.D. enquiry.

8) Be that as it may, taking into consideration the nature of evidence against the applicants, further incarceration of the applicants would not be imperative. It is made clear that observations made herein above are prima facie in nature and shall not be considered for quashing of F.I.R., discharge application or at the time of trial.

ORDER

- (i) Applications are allowed.
- (ii) Applicants be enlarged on bail on furnishing P.R. bond in the sum of Rs. 25,000/- each with one or more sureties in the like amount.
- (iii) Applicants shall not enter into the jurisdiction of Bhosari Police Station during the pendency of the trial.
- (iv) Applicants shall report to Dighi Police Station on 1st and 3rd Sunday of each month till the framing of the charge.
- (v) Applications stand disposed of.

(SMT. SADHANA S. JADHAV, J.)