

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1523 OF 2016

Vyankaatesh Palani Singaran

.....Applicant

V/s.

The State of Maharashtra

....Respondent

WITH
CRIMINAL BAIL APPLICATION NO. 1524 OF 2016

Nabihusain @ Nabbat Nasrulla Sheikh

....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. A. P. Mundargi senior counsel i/b Mr. Vaibhav Karnik Advocate for Applicant.

Mr. Prashant Jadhav APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : OCTOBER 19, 2016.

PC :

1) Heard. These are applications under section 439 of Code of Criminal Procedure, 1973. Applicants herein are arrested on 21/22/02/2016 in crime no. 18 of 2016 registered at Roha Police Station. Investigation is completed and charge-sheet is filed against the applicants and one another for offence

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punishable under section 302, 201 r/w 34 of the Indian Penal Code.

2) It is the case of the prosecution that original accused no. 1 Pravin Thakur had called upon the deceased Sanjay Chavan to meet him. Thereafter, he had carried Sanjay Chavan to Vadala in his car. The car was parked in Ganesh Nagar area on construction site. It is further the case of the prosecution that original accused no. 1 Pravin Thakur had called upon the present applicants. They had reached the spot as indicated. That Pravin Thakur and present applicants had strangled Sanjay Chavan in the car and thereafter, he was taken to Roha railway station and the dead body was abandoned on the railway track.

3) One Vinod Hariprasad Soni who was working in Railway Police Force had seen the dead body abandoned and had lodged the report. He had specifically stated in the F.I.R. itself that in probabilities the dead person was strangled to death as there were bluish abrasions on his neck portion.

4) In the course of investigation, applicants were arrested. It is admitted position that applicants happen to be acquainted with and good friends of original accused no. 1 Pravin Thakur. In the course of investigation, investigating agency had recorded the statement of wife of deceased Sanjay

Chavan namely Pallavi and she had disclosed that on 17/01/2016, her husband had disclosed to her that on the next day, he has been called by Pravin Thakur to meet him. On 18/01/2016, before leaving the house also her husband had informed her that he is going to meet Pravin Thakur. It appears that after 3.00 p.m., cellphone of Sanjay Chavan was not being answered. At about 7.39 p.m., she received a message on her cellphone, purportedly sent by her husband that he is in the company of one Kadam Saheb and will call upon her after he gets free.

5) On 19/01/2016, wife of the deceased had called upon Pravin Thakur and he informed her that on 18/01/2016, he met Sanjay Chavan at about 11.30 a.m. They had tea at hotel Shubham. He gave him Rs. 10,000/- and then he dropped him at Dadar Station. She had called upon him repeatedly to find the whereabouts of her husband and the reply was that she should not trouble him unnecessarily.

6) Investigating agency had also recorded the statement of one Mohammad Jabir who was working as a watchman of Ganesh Nagar Society. He had disclosed to the police that on 18/01/2016, Pravin Thakur had come with some persons in the society and had parked the car in a corner. He had

asked the watchman to bring two cups of tea. Watchman had one cup of tea and Pravin Thakur had taken another cup of tea for the person seated in the car. Watchman had heard Pravin Thakur calling upon the applicants to join them. Watchman had disclosed that there were in all four persons in the car but he had not seen the 4th person. He also disclosed that thereafter all of them had left in the car at Ganesh Nagar.

7) The learned senior counsel for the applicant submits that in fact, statement of watchman does not in any manner indicate the identity of the 4th person seated in the car and therefore, it would only be a matter of presumption that 4th person was the deceased. The learned senior counsel submits that it is the case of the prosecution that the deceased was initially drugged through tea by administration of some spurious substance and thereafter killed. However, there is no material on record, much less the post-mortem notes also do not indicate that any spurious unknown substance was found in the stomach contents. The learned senior counsel also submits that in the eventuality that the deceased was drugged, he could not have resisted and there will be some material to indicate the same. In any case, the said allegations are against Pravin Thakur.

8) Upon perusal of the post-mortem notes, it appears that there were several contusions on the person of the deceased which would indicate that the deceased had rather strangled to rescue himself from the clutches of his assailants. This Court is of the opinion that deceased could not have been strangled by a single person and there must be more than two persons who had over powered him.

9) The learned APP submits that there is material on record to indicate that at the relevant time, Pravin Thakur had rather called upon the applicants to join him which is coupled with the statement of the watchman which shows that he had in fact seen Praveen Thakur and the present applicants in the parking area and he had not seen the 4th person but was sure that there was 4th persons in the court.

10) Case rests on circumstantial evidence. That the involvement of the applicant can be seen only at the time of trial. *Prima facie* there is material on record to show that at the relevant time deceased Sanjay Chavan had met Praveen Thakur as is admitted by him before the wife of deceased, secondly Praveen Thakur had called upon the applicant who had obliged and joined him at the relevant time.

11) It is in these circumstances that applicants do not deserve to be enlarged on bail. Hence, applications being sans merits, stand rejected.

(SMT. SADHANA S. JADHAV, J.)