

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1844 OF 2016

Narayan Baban Kalbhor

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Ritesh Thobde Advocate for Applicant.

Mr. Prashant Jadhav APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 25th NOVEMBER, 2016.

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is arrested on 22/11/2015 in crime no. 104 of 2015 registered at Akkalkot (North) Police Station, District: Solapur. Investigation is completed and charge-sheet is filed.

2) It is the case of the prosecution that on 16/06/2015, Police Constable Nagnath Kumbhar lodged a report at the police station that on 16/06/2015, he had an information from Abhijeet Patil from Chapalgaon who informed the police that on Chapalgaon-Hannur road, a woman is lying in an abandoned

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condition. The police reached the spot. They found that a woman was burnt. The dead body could not be identified. There were injuries on her person and it was clear that she had died a homicidal death. Crime no. 104 of 2015 was registered against unknown persons for offence punishable under sections 302, 201 r/w 34 of the Indian Penal Code.

3) On 10/11/2015, an application was filed by Sakhubai Hazare to the Commissioner of Police, Pune City alleging therein that Tarabai was in a relationship with the present applicant. On 08/06/2015, Tarabai had lodged a report against the applicant before the police. The police had summoned the applicant and his wife and there, all three had informed the police that they have settled their disputes amicably and that the first wife of the applicant had no objection to the relationship between Tarabai and applicant.

4) The learned counsel for the applicant submits that Tarabai had filed a report on 13/02/2015 against the present applicant. It was compromised.

5) In the course of investigation, police had recorded the statement of Sakhubai Hazare. She had implicitly stated that the applicant was in a live-in relationship with Tarabai for quite sometime. On 14/06/2015, Tarabai had informed Sakhubai that she was going to Tuljapur with the present applicant

and thereafter she had not met Sakhubai for almost 3 months. She had enquired with the present applicant who had given evasive answers. She therefore, suspected the bonafides of the present applicant and lodged a missing report at the police station on the basis of which investigation was set in motion. She had given the photographs of Tarabai to the police.

6) In the course of investigation, police had recorded the statement of Santosh Ghodke who had stated that he was acquainted with Tarabai. That on 16/06/2015, he had taken the present applicant and Tarabai to Tuljapur and Akkalkot. On the way there was a quarrel between Narayan and Tarabai as doors of Akkalkot temple were closed. Tarabai blamed the applicant for wasting time in consuming beer. Santosh had specifically stated that on the way, Narayan had dragged Tarabai out of the car and had set her ablaze. He had abandoned the dead body of Tarabai. He had threatened Santosh that he would also meet the same fate in the eventuality that he disclosed the incident to anybody and hence, he maintained silence. The statement of Santosh is also recorded under section 164 of the Code of Criminal Procedure, 1973 in which he has reiterated the contentions in the statement under section 161 of the Code of Criminal Procedure, 1973.

7) The learned counsel for the applicant submits that Santosh Ghodke is also accused in crime no. 104 of 2015 and that he has been enlarged on bail by this Court.

8) Perusal of the order enlarging the co-accused on bail would show that the co-accused was enlarged on bail on the ground that there was no evidence against him except for the statement under section 164 of the Code of Criminal Procedure, 1973. It is clear that the co-accused had committed an offence punishable under section 201 of the Indian Penal Code as he was screening the offender and was also helping him to cause disappearance of evidence.

9) Taking into consideration papers of investigation, the statement of Santosh Ghodake, and the deceased was in the company of the applicant just before she died, the applicant herein does not deserve to be enlarged on bail. The co-accused Santosh Ghodke is an eye witness. His statement would be considered at the time of trial under section 30 of the Indian Evidence Act. It is made clear that observations made herein above are restricted to an application under section 439 of the Code of Criminal Procedure, 1973 and the learned Sessions Judge shall not be influenced by the same at the time of

trial.

10) Application stands rejected.

(SMT. SADHANA S. JADHAV, J.)