

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO. 666 OF 2017

Shreekant Dhulappa Dhule

... **Applicant**

V/s.

The State of Maharashtra

... **Respondent**

Mr. Satyavrat Joshi for the Applicant.

Mr. Prashant Jadhav, APP for the Respondent/State.

CORAM : A.S.GADKARI, J.

DATE : 28th SEPTEMBER, 2017

P.C.:

. This is an application under Section 439 of Cr.P.C. for bail in C.R. No. 121/2014 dated 17.03.2014 registered with Dattawadi Police Station, District Pune under Sections 302 of Indian Penal Code.

2 The Applicant is Accused No.1 in the aforesaid crime. The name of the deceased is Mayur Naik. It is the prosecution case that Accused No.6 Shradha Mayur Naik was having extra marital affair with the Applicant, to which deceased Mayur Naik was an obstacle. With a view to remove the obstacle to their love affair, the Applicant hatched a conspiracy with Accused Nos. 2 to 5 and decided to kill Mayur Naik. That the said conspiracy was hatched in the restaurant namely Star Juice Center Hotel at Bidar, State of Karnataka. In pursuance to the said conspiracy, Accused Nos. 2 to 5 arrived at Pune and on 17.03.2014 and

committed murder of Mayur Naik by strangulation in his house. That with a view of screen evidence, the Applicant along with other accused persons took the dead body of deceased Mayur Naik on a two wheeler and threw it away in a dustbin at village Narhe. After noticing the dead body by the villagers, the said fact was informed to Shri. Milind Naik, i.e. the father of the Mayur and the present crime is thereafter, registered. During the course of investigation, the Applicant is arrested on 22.03.2014. After completion of investigation, the police have submitted charge-sheet.

3 Heard the learned Counsel for the Applicant, learned APP and perused the charge-sheet.

The prosecution has propounded in all three circumstances against the Applicant namely i) motive i.e. Applicant was having extra marital relations with Accused No.6 Shraddha, who was wife of deceased Mayur Naik, ii) Recovery of mobile phone of the deceased, iii) Applicant shown the place under a discovery panchanama, where the alleged conspiracy was hatched in the restaurant at Bidar in the State of Karnataka.

4 As far as the first circumstance of motive is concerned, the first informant himself has mentioned about the same in the report. As far as the second circumstance of recovery of the mobile phone of the deceased is concerned, the evidence on record prima facie is silent about its identity and/or the fact that the said mobile was in use of the deceased prior to his death. It is to be noted hear

that the said mobile phone was recovered without a sim card and prima facie, there is no connecting link to establish the fact that the said handset of the mobile was infact in use and possession of the deceased prior to his death. As far as the third circumstance of discovery of the place at the instance of Applicant, where it is alleged that conspiracy was hatched, it prima facie appears that the said circumstance is weak in nature. Thus, prima facie it appears that except strong motive which revolves around the Applicant, there is no material on record against the Applicant.

5 Learned Counsel for the Applicant submitted that as per his instructions Accused No.2 Raju Shinge, Accused No.3 Siddhu Gola, Accused No.5 Nagraj Mahalingpur and Accused No.6 Shraddha have already been released on bail by the Trial Court. He further submitted that the order granting bail to Shraddha is not made available to him by his client. However, it has been orally instructed to him. As stated earlier, the Applicant is arrested on 22.03.2014. Since then, he is in jail. It is submitted that there are no antecedents at the discredit of applicant.

6 In view of the above, the Applicant can be released on bail.

Hence, the following order:-

- i) The applicant be released on bail in C.R. No. 121/2014 dated 17.03.2014 registered with Dattawadi Police Station, District Pune on his furnishing PR bond of Rs.25,000/- with one or two solvent local sureties in the like amount.
- ii) After his release from the jail, the applicant shall attend the Dattawadi

Police Station once in month i.e. on every 1st Monday of the month between 11.00 a.m. to 2.00 p.m.

- iii) The applicant shall also attend all dates before the Trial Court.
- iv) Any two consecutive defaults in complying with the aforesaid conditions, shall attract the provisions of cancellation of bail.
- v) The Applicant shall not tamper with the evidence and/or pressurize or threaten the prosecution witnesses.
- vi) Before his release from jail, the Applicant shall provide documents of his residence where he is proposed to reside after his release from jail to the Investigating Officer.
- vii) Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)