

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1264 OF 2017

Raju Shivaji Jadhav Landya Raju ... **Applicant**

V/s.

The State of Maharashtra ... **Respondent**

CRIMINAL APPLICATION NO.947 OF 2017

IN

BAIL APPLICATION NO.1264 OF 2017

Gangubai Guruppa Pawar ... **Applicant/Intervenor**

In the Matter in Between :

Raju Shivaji Jadhav Landya Raju ... **Applicant**

V/s.

The State of Maharashtra ... **Respondent**

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Ms.Naima Shaikh i/b. Khan Abdul Wahab, Advocate for the Applicant.

Mr.K.M.Tripathi, Advocate for the Intervenor/applicant in APPP/947/2017.

Ms.Veera Shinde, APP for the Respondent/State.

Mr.Badhe, PI, V.B.Nagar Police Station is present in person.

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CORAM : A.M.BADAR J.

DATED : 9th NOVEMBER 2017.

P.C. :

1 The applicant/accused in Crime No.86 of 2016 registered with V.B.Nagar Police Station, Mumbai for offences punishable under Sections 302, 328, 364, 365, 201, 120-B read with Section 34 of the Indian Penal Code, by this application, is seeking his release on bail after filing of the charge-sheet.

2 Heard the learned Advocate appearing for the applicant/accused. She argued that co-accused with equal role, as alleged by the prosecution, has been released on bail by this Court vide Order dated 27th September 2017 passed by this Court in Criminal Bail Application No.920 of 2017 (Coram : Revati Mohite-Dere J.) and, therefore, the present applicant also needs to be given the same treatment.

3 The learned Additional Public Prosecutor appearing for the respondent/State has accepted the fact that co-accused Kishore Jadhav having similar role has been released on bail by this Court.

4 I have heard the learned Advocate appearing for the intervenor. He argued that apart from this, there is supplementary statement of Gangubai Pawar – mother of the deceased stating the role of the present applicant in the crime in question.

5 I have carefully considered the rival submissions and also perused the entire charge-sheet.

6 The deceased in this case is Deepak Pawar, who is son of the First Informant Gangubai Pawar. He went missing from his house on 14/03/2016. His mother Gangubai lodged missing report on 15/03/2016. Ultimately, on 11/04/2016, she lodged a FIR with averment that his son might have been abducted by Billa, Prakash @ Michael, Parvej and Babu.

7 During the course of investigation on 20/04/2016, Khopoli police showed clothes of a dead body found in their jurisdiction. The First Informant identified those clothes to be clothes of her son Deepak Pawar. Prior to that, postmortem examination of the dead body was conducted and it was found that the deceased died due to strangulation. Statement of Habib Abdul Ajij Shaikh and Jawaharlal Pawar shows that on 14/03/2016, Deepak Pawar was consuming *ganja* with accused persons including the present applicant. Their statement further shows that subsequently, Tranet Tablets, commonly known as 'buttons' were brought and those tablets were also consumed by the deceased as well as accused persons. Statement of Baba Pawar shows that on 15/03/2016, at about 6.00 to 6.30 a.m., he had seen Deepak Pawar (since deceased) in company of the present applicant and the co-accused including Kishore Malku Jadhav. The prosecution is relying on the last seen theory. According to the prosecution case, Kishore Malku Jadhav was also in company of deceased Deepak Pawar at about 6.00 to 6.30 a.m.

Case of Kishore Malku Jadhav i.e. the co-accused having the same role was considered by this Court while deciding the Criminal Bail Application No.920 of 2017 on 27th September 2017 and with the following reasons the co-accused is granted bail.

“The statement of Baba Pawar, step brother of the deceased was recorded on 21st April, 2016. According to Baba Pawar, on 15th March, 2016, he had seen Deepak in the car, in which the applicant was also present along with other co-accused, at about 5:00/6:30 a.m. The said witness i.e. Baba Pawar is not only related to the deceased but is also staying in the same vicinity, where the complainant was staying. Admittedly, the said fact was not disclosed by him, either to the complainant or any other person. This is the only material qua the applicant. Admittedly, the applicant had no motive to cause the death of Deepak.”

8 Evidence against the present applicant is identical with the evidence as available against co-accused Kishore Jadhav. He is already enlarged on bail by this Court. Hence, on the principle of parity, the following order :

- (I) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount;

- (ii) The applicant shall attend the concerned Police Station on the first Saturday of every month between 10:00 a.m. to 11:00 a.m., till the conclusion of the trial;
- (iii) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (iv) The applicant shall inform his latest place of residence and mobile contact number and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;
- (v) The applicant to cooperate with the conduct of the trial;
- (vi) The applicant shall file an undertaking in the trial Court with regard to clauses (ii) to (v), within two weeks of his release;
- (vii) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

9 The application is accordingly disposed of.

10 In view of disposal of Criminal Bail Application No.1264 of 2017, Intervention Application therein bearing No.947 of 2017 stands disposed of.

(A.M.BADAR J.)