

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1308 OF 2017

Narayan Chhatri Yadav

Applicant

versus

State of Maharashtra

Respondent

Mr.Bhavesb Thakur i/by Mr.R.B.Mungekar for Applicant.

Mr.A.R.Kapadnis, APP, for State.

CORAM : PRAKASH D. NAIK, JJ.

DATE : 24th July 2017

PC :

1. This is an application for bail in connection with CR No.21 of 2016 registered with Sewree Police Station, Mumbai for offences punishable under Sections 363 read with Section 34 of Indian Penal Code. Subsequently, Section 302 of Indian Penal Code was invoked.

2. The Applicant was arrested on 6th March 2015. It is the case of prosecution that one Chedilal had altercation with brother of complainant and thereafter the brother went missing. A complaint of missing was filed. It was revealed that the brother was kidnapped by accused and then murdered. The deceased Ashraf Iqbal Mujawar @ Tilli was murdered in this case. The complaint was lodged by Afzal Mujawar, the brother of the deceased. On 3rd March 2015, at about 9.30 p.m., the complainant was informed that there was a quarrel between the co-accused Chhedilal and deceased Tilli. The witness Ramkaran Yadav arrived at the office of Bharat where at about 10 p.m. the accused including the Applicant had arrived and Chhedilal informed that they would assault Tilli. It is alleged that the Applicant along with co-accused proceeded towards Sewree. Whereas witness Bharat met the complainant and informed that

there was a quarrel and Tilli has been assaulted. On 4th March 2015, at about 9.30 .m., Ramkaran informed Bharat that Chedilal and his friends abducted Tilli and had thrown him down from Wakola Bridge. Bharat tried to search the accused and Tilli but did not find them. On the basis of information received from Bharat, the complainant lodged the FIR. In the statement of Ramkaran Yadav, it appears that Tilli was apprehended by accused and assaulted. He interfered. He was threatened by co-accused. The accused lifted Tilli and by putting him in a tempo went towards cotton green. Rakmaran accompanied them. Accused Shailesh assaulted on chest with knife due to which he became unconscious and thereafter co-accused Cheilal directed co-accused Dinesh and Applicant to alight from vehicle and go to Darukhana area at Sewree. Accused Chedilal and Shailesh threw the deceased down from Wakola Bridge.

3. Learned advocate for Applicant submitted that from the statement of Bharat it appears that though Bharat had witnessed the quarrel between the co-accused Chhedilal and Tilli on 3rd March 2015 and also claimed that Chhedilal threatened to kill Tilli, no report or information was given by Bharat on that day. It is further submitted that the statement of Ramkaran reveals that before the accused proceeded to Wakola bridge along with the deceased, the Applicant and co-accused have alighted from the vehicle to go to Darukhana at Sewree. In view of the said statement, presence of the Applicant is not shown at Wakola bridge where from the deceased has been allegedly thrown down by the accused. It is further submitted that the co-accused Dinesh who has been attributed the same role, has been granted bail by this Court vide Bail Application No.487 of 2016 by order dated 21st June 2016.

4. Perused the documents on record. The co-accused Dinesh Yadav has been granted bail by a reasoned order by this Court. While granting bail to the co-accused, it has been observed that the accused including the Applicant and the co-accused had alighted from the vehicle to go Darukhana at Sewree. Thus, presence of the Applicant has not been shown at Wakola bridge. The Applicant, is therefore, entitled for parity with the accused who has been granted bail by this Court. The Applicant is in custody from 6th March 2015. On completing the investigation, charge sheet has been filed.

5. In the aforesaid circumstances, the application for bail is to be allowed. Hence, I pass following order :

ORDER

- (i) Bail Application No.1308 of 2017 is allowed;
- (ii) The Applicant is directed to be released on bail in connection with CR No.21 of 2015 registered with Sewree Police Station, Mumbai on his executing PR bond in the sum of Rs.50,000/- with one or more sureties in the like amount;
- (iii) The Applicant shall report to Sewree Police Station, Mumbai on first day of each month between 11.00 a.m. and 1.00 p.m. and shall attend the hearing before the Trial Court;
- (iv) The Applicant shall not indulge in tempering with the evidence and/or influence the witnesses in any manner whatsoever;
- (v) The application is disposed of.

(PRAKASH D. NAIK, J.)