

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1205 OF 2016

Mangesh Suresh Pingale	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr. A.S.Khandeparkar i/b. Ms. Mansi S. Bane, Advocate for the applicant.
Ms. J.S.Lohokare, APP, for the State.
Mr. S.S.Shinde, Havildar, Murbad Police Station, Thane Gramin present.

CORAM: SMT.SADHANA S.JADHAV, J.
DATE : 15th February, 2017.

P.C.

Heard. This is an application under Section 439 of Cr.P.C. The applicant herein is arrested on 27.11.2015 in Crime No.123 of 2015 registered at Murbad Police Station on 5.9.2015. The investigation is completed and charge-sheet is filed against the present applicant and two others on 7.12.2015 for the offences punishable under Sections 302, 364 201 read with Section 34 of the Indian Penal Code.

2. It is the case of the prosecution that on 1.9.2015, one Mrs. Srikala Sajiv Paniker lodged a missing complaint at the police station alleging therein that her husband had not returned home. Her husband was working as a Sectional Engineer in Railway Department. She had informed that her

husband had left the house on 31.8.2015. but had not returned home. On the basis of the said report, Missing Report No.5/2015 was registered at Mahatma Phule Chowk Police Station. On the same day, i.e. on 1.9.2015, an unidentified dead body of a male was found near a gutter in Vashivali Village. A.D.No.37 of 2015 was registered. In the course of investigation, the dead person was identified as Sajiv Panikar i.e. the missing person in Missing Report No.5/2015.

3. On 5.9.2015, Srikala Panikar lodged a report at the police station alleging therein that her husband was having intimate relations with one Asha Dhokre, who happens to be the wife of accused No.1 Balu @ Bhalchandra Dhokre. In the year 2014, Balu had threatened her husband. That Sajiv Panikar had tendered his apology to Balu Dhokre. According to her, she suspected that her husband was killed by Balu Dhokre due to illicit relations between his wife and deceased Sajiv Panikar.

4. In the course of investigation, a memorandum statement was recorded of the present applicant under Section 27 of the Indian Evidence Act and it had transpired that he along with Balu had eliminated Sanjiv Panikar and that the applicant had used his car to dispose of the dead body.

5. The learned counsel for the applicant submits that the principal accused – Balu @ Bhalchandra Dhokre has been enlarged on bail by this

Court (Coram: A.S.Gadkari, J.) by order dated 18.8.2016. The Hon'ble Court observed that besides the memorandum of panchnama under Section 27 of the Indian Evidence Act, there is no material in the compilation of charge sheet which can be converted into an admissible evidence at the time of trial. Taking into consideration the said aspect, the applicant deserves to be enlarged on bail by virtue of doctrine of parity.

6. The observations hereinabove are restricted to an application under Section 439 of Cr.P.C. and the same shall not be taken into consideration for the purpose of quashing of FIR, discharge application or at the time of trial.

ORDER

- (I) The application is allowed.
- (ii) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or more solvent local sureties in the like amount.
- (iii) The applicant shall report Murbad Police Station on first Sunday of each month between 11 a.m. to 2 p.m. till framing of charge.

Application is allowed and disposed of.

(SMT. SADHANA S.JADHAV, J.)