

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

BAIL APPLICATION NO.1731 OF 2016

Swapnali Sidhik Bhosale

... Applicant

Vs.

The State of Maharashtra

... Respondent

with

BAIL APPLICATION NO.1732 OF 2016

Vijay @ Gadu Mejar Bhosale

... Applicant

Vs.

The State of Maharashtra

... Respondent

Mr.K.S. Patil for the Applicants

Mrs.Rutuja Ambekar, APP, for Respondent – State

CORAM: Mrs.MRIDULA BHATKAR, J.

DATED: FEBRUARY 10, 2017

P.C. :

1. These applications are moved for bail. Both the applications have been heard and decided together as they are arrested and prosecuted in one and the same C.R. i.e., C.R. No.255 of 2015 registered with Saswad Police Station, Pune for offense punishable under section 460 of the Indian Penal Code.

2. It is the case of the prosecution that one Ramesh Dashrath Mokashi is the complainant, having a farm and rose garden at village Bhiwdi, Taluka: Purandar, District: Pune. He stays at Pune. Leelabai, the mother of the complainant, was residing at Bhiwdi and was looking after the farm and the rose garden. The two families of the applicant/accused i.e., the co-accused Sidhik @ Siddhu Bhosale and one Vijay @ Gadu Mejar Bhosale were staying near the house of Leelabai and they used to help Leelabai in the work. On 15.10.2015, some persons entered the house of Leelabai by opening the store room door. They assaulted Leelabai, who succumbed to the injuries. They took away ornaments on her person, Rs.20,000/- cash, from her house and thus, committed robbery of Rs.80,000/-. Thereafter, he was contacted telephonically on 16.10.2015 in the early morning by the applicant/accused Vijay Bhosale, who informed him at around 4.30 a.m., that the other labourer Sidhik Bhosale has informed the applicants/accused about the robbery and death of Leelabai. Therefore, he went to Bhiwdi and he found that the house was ransacked and his mother was killed. So, he lodged complaint against unknown persons with the police. The police on suspicion brought the sniffer dogs squad, and traced the accused Sidhik

Raghunath Bhosale, a person who was working for Leelabai and thereafter the police arrested the applicants/accused and other co-accused on the same day on 16.10.2015, and hence, these Bail Applications are filed.

3. The learned Counsel for the applicants/accused has submitted that the applicant/accused Swapnali is innocent and there is no evidence against her. He further submitted that applicant/accused Viay Bhosale has also not committed any offence. He is arrested only on suspicion. The learned Counsel submitted that there are statements of two or three persons that in the early hours i.e., at around 2.30am, some persons had seen the applicants/accused and other two accused persons going away from the house of Leelabai. The learned Counsel further submitted that in the statements, the concerned witnesses have stated that the applicants/accused alongwith the co-accused used to go to the farm at odd hours in the night and therefore, they were not questioned. He further submitted that as per the case of the prosecution that Rs.5,000/- was recovered at the instance of the applicants. However, Rs.5,000/- is available in the house to any person as the amount is not very big and thus, considering this

scanty evidence, the applicants/accused are to be released on bail.

4. Learned Prosecutor has opposed the applications. She relied on the statements of the witnesses i.e., Anil Laxman Mokashi, Vijay Bhintade, Yogesh Tukaram Bhintade, Dattatrey R. Khillare, who has stated that on the early morning at around 2am on 16.10.2015, they heard dogs barking and, therefore, when they came out, they found the applicants/accused alongwith other two co-accused were going on a motor cycle. She further submitted that there is a recovery of Rs.5,000/- at the instance of the applicants/accused and the amount was recovered from the spot from a pit under a tree. She submitted that the blood-stained sickle was found near the house of the co-accused and sniffer dogs squad was called and after getting clue, proceeded towards house of the accused and thus, the applicants/accused were arrested.

5. She submitted that it is a case under section 302 of the Indian Penal Code and hence, they are not to be bailed out. She further submitted that the blood stained clothes of the applicant/accused Vijay were seized by the police.

6. Perused FIR, the statements of the witnesses relied on by the learned Prosecutor. The submissions of the learned Counsel in respect of evidence of applicant/accused Swapnali are *prima facie* accepted and hence, the applicant/accused Swapnali Sidhik Bhosale is granted bail on the following terms:

- a) The applicant-accused Swapnali Sidhik Bhosale shall be released on bail upon furnishing P.R. Bond in the sum of Rs.30,000 /- (Rupees Thirty thousand only) with one or two solvent local sureties in the like amount;
- b) The applicant-accused Swapnali Bhosale shall not tamper with the evidence or pressurise the complainant or the witnesses;
- c) The said applicant-accused shall not indulge into any criminal activity and shall attend on all the Court dates;
- d) The said applicant-accused shall not abscond or leave India without prior permission of the Court and furnish her correct address to the Investigating Officer

alongwith documentary proof of her address, if the address is changed.

e) In the event of breach of any of the above conditions, the prosecution will be at liberty to move the Court for cancellation of bail.

7. As regards the applicant/accused Vijay Bhosale, the statements of the witnesses disclose that the said applicant/accused alongwith the co-accused was seen at 2 a.m. on 16.10.2015 and thereafter, immediately, the applicant/accused Vijay Bhosale contacted the complainant and told that he received a phone call from the co-accused Sidhik that Leelabai was found dead. Further, the place from where the amount of Rs.5,000/- was recovered is also *prima facie* evidence against the applicant/accused Vijay Bhosale. There is circumstantial evidence against the applicant/accused Vijay Bhosale. Hence, his bail application i.e., Bail Application No.1731 of 2016 is rejected.

(MRIDULA BHATKAR, J.)