

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 1811 OF 2016

Sharda Kisan Pardeshi

... Applicant

Versus

State of Maharashtra

... Respondent

WITH

CRIMINAL APPLICATION NO. 244 OF 2017
IN
CRIMINAL BAIL APPLICATION NO. 1811 OF 2016

Shripal Shravan Gaikwad

...Applicant
(Ori. Complainant)

In the matter between

Sharda Kisan Pardeshi

...Applicant

Versus

The State of Maharashtra

...Respondent

WITH

CRIMINAL BAIL APPLICATION NO. 996 OF 2016

Subhash S/o Govind Dhadge

... Applicant

Versus

The State of Maharashtra

... Respondent

WITH

CRIMINAL BAIL APPLICATION NO. 1936 OF 2016

Sunil Babu Patekar

... Applicant

Versus

State of Maharashtra

... Respondent

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Mr. Satyavrat Joshi for the Applicant in Bail Application No. 1811 of 2016.

Mr. S.S. Pednekar, APP for the Respondent-State in Bail Application No. 1811 of 2016.

Mr.Vishal L. Kolekar for the Intervener in Criminal Application No. 244 of 2017.

Mr. Parimal K. Phale for the Applicant in Bail Application No. 996 of 2016.

Mr.S.H.Yadav, APP for the State- Respondent in Bail Application No. 996 of 2016.

Mr. Roopesh R. Jaiswal i/b. Ms. Asmita S. Jaiswal for the Applicant in Bail Application No. 1936 of 2016.

Mr. Rajan Salvi, APP for the State – Respondent in Bail Application No. 1936 of 2016.

Mr. C.M.Jadhav, PI, Lonavala City Police Station, Pune (present)

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CORAM: Mrs.MRIDULA BHATKAR, J.

DATED: MARCH 21, 2017

PC. :

1. All these bail applications are heard and decided by this common order as the applicants-accused are facing same charges in C.R. No. 130 of 2015 registered with Lonavala City Police Station, Pune Rural, District- Pune for the offences punishable under sections 302, 201, 342, 363, 364 and 120B read with 34 of the Indian Penal Code. It is a case of double murder of Akshay Gaikwad and Rajesh Pimpale, which took place on the night intervening 18th July 2015 to 19th July 2015. The offence was registered at the instance of Shri Shripal Gaikwad.

2. It is the case of the prosecution that one Shripal Gaikwad, who was working in Lonavala Corporation, found that his son was missing on 18th July 2015. On 18th July 2015 at around 10.30 p.m., the deceased

Akshay Gaikwad and his friend Rajesh Pimple had quarrel with the main accused – Kisan Pardeshi on account of rent of the parking place and at that time Kisan Pardeshi- main accused alongwith other co-accused took away Akshay and Rajesh in his car. It is the case of the complainant that his son Akshay and his friend Rajesh used to wander with Kisan Pardeshi in his car and therefore, he was waiting for his son and did not take action immediately. On 20th July 2015, the complainant gave a missing report, which was registered on 28th July 2015 as they were not found. He has received information that Kisan Pardeshi- main accused had kidnapped his son Akshay and his friend Rajesh and they were missing on 4th August 2015. Initially, the police had registered the case under section 363 of the Indian Penal Code. Subsequently, the dead bodies of these persons were found near Tamhini Ghat and then sections 302, 364, 201 and 120B of the Indian Penal Code were added. It is the case of the prosecution that Kisan Pardeshi-main accused took away Akshay and Rajesh. He is a notorious gangster and the co-accused who are associates of Kisan Pardeshi took out their clothes and both were mercilessly beaten up with wooden rod, fist and kick blows for 4 to 5 hours on that night in which they scummed to the injuries and thereafter their bodies were thrown with the help of Sharda Pardeshi, who is wife of Kisan Pardeshi and other accused. Thereafter, Kisan Pardeshi-main accused took shelter of the applicant-accused Subhash Dhadge. The

applicant-accused Sharda Pardeshi was arrested on 7th September 2015 and the applicant-accused Sunil Patekar was arrested on 18th September 2015. The applicant-accused Subhash Dhadge was arrested on 25th September 2015. Since then, they are in custody. Hence, these bail applications.

3. The learned counsel for the applicant-accused in Bail Application No. 1181 of 2016 has submitted that the applicant-accused has not participated in the crime. She is innocent. She is wife of the main accused- Kisan Pardeshi and therefore, she was arrested. The learned counsel for the applicant-accused has relied on the statements of Deepak Reddy and Milind Mohite, who are eye witnesses to the actual assault and who have stated that after Akshay and Rajesh were killed, main accused Kisan Pardeshi had called his wife Sharda Pardeshi and Subhash Dhadge, who have helped the main-accused Kisan Pardeshi to shift the dead bodies of Akshay and Rajesh outside. He has further submitted that the applicant-accused do not have criminal antecedents and therefore, she be granted bail as the offence under section 201 of the Indian Penal Code is bailable.

4. The learned APP while opposing the bail application of Sharda Pardeshi has submitted that she is not only wife of the main accused Kisan Pardeshi, but also she has actively disposed of the bodies after

murder of Akshay Gaikwad and Rajesh Pimpale. He has further submitted that she controls many criminal activities of the main accused Kisan Pardeshi and therefore, she is not to be released on bail.

5. The learned counsel for the intervener has also opposed this application and pointed out that a criminal case was registered by witness Deepak Reddy as there was assault by son of the applicant-accused Sharda Pardeshi and the main accused Kisan Pradeshi during the pendency of this trial.

6. I have read the statements of Milind Mohite and Deepak Reddy, so also, other documents which are placed before the Court. As per the statements and the evidence before this Court, *prima facie*, it appears that the applicant-accused Sharda Pardeshi has actively participated in the disappearance of the evidence as she has shifted the dead bodies from the place of actual assault to Tamhini Ghat alongwith the co-accused. However, it appears that she is facing charges under section 201 of the Indian Penal Code, which is bailable and therefore, only on this count her application can be allowed. It appears that the applicant-accused is not likely to jump bail and considering the evidence, I grant bail to the applicant-accused Sharda Pardeshi.

7. The learned counsel for the applicant-accused in Bail Application No. 996 of 2016 has submitted that the applicant-accused is a resident

of Ahmednagar. He has no connection with this crime. His name was not taken by eye witnesses or any other witness. There is no nexus between the applicant-accused and the incident of murder. The learned counsel for the applicant-accused has further submitted that as per the prosecution, the applicant-accused has given shelter to the main accused Kisan Pardeshi and therefore, he was arrested and prosecuted for the offence punishable under section 201 of the Indian Penal Code.

8. The learned APP while opposing the Bail Application of Subhash Dhadge has submitted that the applicant accused is a notorious criminal. He is very close to the main accused Kisan Pardeshi, who has participated in this crime. This applicant-accused has criminal antecedents under the N.D.P.S. Act. After commission of the present crime i.e. on 15th September 2015, the applicant-accused has committed one offence alongwith the main accused Kisan Pardeshi, which is registered at C.R.No. 241 of 2015 on 14th September 2015 for the offences punishable under sections 307, 504 and 506 of the Indian Penal Code. Hence, the bail can not be granted to this applicant-accused Subhash Dhadge.

9. I have considered the evidence against the applicant-accused. Admittedly, the applicant-accused was not present when the incident had taken place. It appears that the incident had taken place

immediately after verbal altercation between Kisan Pardeshi-main accused and the deceased persons on that night. *Prima facie*, there is no such evidence of conspiracy. As per the evidence of the prosecution, the applicant-accused gave shelter to the main accused Kisan Pardeshi after the incident. One more offence was committed by the applicant-accused with the main accused Kisan Paredeshi on 14th September 2015 i.e. after the present offence, which is non-bailable under sections 307 and 504 of the Indian Penal Code. There are charges under sections 201 and 212 of the Indian Penal Code as he has harboured the offender, but there is no prima facie evidence under section 302 of the Indian Penal Code. The offences under sections 201 and 212 are bailable. Considering the role attributed to the applicant-accused Subhash Dhadge, it appears that the applicant-accused is not likely to jump bail and considering the evidence, I grant bail to the applicant-accused Subhash Dhadge.

10. The learned counsel for the applicant-accused in Bail Application No. 1936 of 2016 has submitted that the applicant-accused is innocent and he has not committed any offence. He does not have criminal antecedents. As per the statements of Dilip Sawant and Ajay Sawant, a very small role is attributed to the applicant-accused. The learned counsel of the applicant-accused has further submitted that as per the statements of the witnesses, the applicant-accused Sunil Patekar pushed

Rajesh Pimpale in the car of Kisan Pardeshi- main accused when Kisan Pardeshi- main accused and other accused took Akshay and Rajesh from the spot of quarrel. He has further submitted that as per the statements of Mohan Mari Muttu and Vishal Pimpale, who are also eye witnesses to the quarrel have stated that Rajesh Pimpale had himself sat in the car. Hence, he be granted bail.

11. The learned APP has opposed this application.

12. Perused the statements of the witnesses which are pointed out by the learned counsel for the applicant--accused. The learned APP has relied on the statements of Dilip Sawant and Ajay Sawant. I have read the statements and the evidence. It appears that the applicant--accused admittedly was not present at the time of assault, but he was present when the first incident of quarrel took place between the deceased and the main accused Kisan Pardeshi. Thereafter, the main accused Kisan Pardeshi alongwith other accused forcibly took away the deceased persons. At that time, the applicant--accused Sunil Patekar, who was standing there pushed Rajesh Pimple inside the car of Kisan Pardeshi. Apart from this, there is no other evidence to show that the applicant--accused Sunil Patekar was actually present there or participated in the assault. He does not have criminal antecedents. It appears that the applicant--accused is not likely to jump bail and considering the

evidence, I grant bail to the applicant-accused Sunil Patekar.

13. I would like to place on record that it is a double murder case. It is a very serious offence. The main accused Kisan Pardeshi is having criminal record in the present case. There are two eye witnesses i.e. Deepak Reddy and Milind Mohite. Deepak Reddy was assaulted by the son of Sharda and Kisan Pardeshi. Considering the criminal activities of present applicants-accused i.e. Sharda Pardeshi and Subhash Dhadge and the main accused Kisan Pardeshi, it is necessary for the police to give protection to these eye witnesses. It is also advisable that the learned Sessions Judge to proceed with the matter and record the evidence of these persons. It is a duty of the police to check the criminal activities of the accused persons and to assure safety to the witnesses, so that they can come forward to give evidence.

14. Under such circumstances, I grant bail to all the applicants-accused on the following terms and conditions:

ORDER

- a) The applicants-accused shall be released on bail upon furnishing PR. Bond in a sum of Rs.50,000/- (Rupees Fifty Thousand only) each with one or two solvent sureties in the like amount.
- b) The applicants-accused are restricted to enter into Lonavala, Khalapur, Panvel and Pune till the end of the trial except the Court conditions and the police attendance.

They are directed to report Shivaji Nagar Police Station, Pune.

- c) The Shiva Nagar Police Station is directed to report accordingly to Lonavala City Police Station, Pune Rural, District- Pune.
- d) The applicants-accused are directed to attend the Sessions Court between 9.30 a.m. and 10.30 a.m. as and when the case is placed on board.
- e) The applicants-accused shall not tamper with the evidence or pressurise the complainant or the witnesses.
- f) The applicants-accused shall not indulge into any criminal activity and shall attend all the Court dates.
- g) The applicants-accused shall not abscond or leave India without prior permission of the Court and furnish their permanent as well as temporary addresses to the Investigating Officer alongwith documentary proof of their addresses.
- h) 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.

15. These Bail Applications are disposed of in the above terms.

16. In view of disposal of Bail Application No. 1811 of 2016, Criminal Application No. 244 of 2017 does not survive and is disposed of.

(MRIDULA BHATKAR, J.)