

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION No. 2078 OF 2016

Ganesh Pandurang Shinde

..... Applicant

vs.

State of Maharashtra

..... Respondent

ALONG WITH

CRIMINAL BAIL APPLICATION No. 2079 OF 2016

Dhananjay Bhagwat Pawar

..... Applicant

vs.

State of Maharashtra

..... Respondent

Mrs. Pranali P. Kakade for the Applicants in both Bail Applications.

Mr. Prashant Jadhav, APP for the Respondent-State in both Bail Applications.

CORAM: MRS.MRIDULA BHATKAR J.

DATE : March 22, 2017

P. C. :

These two Applications are moved for bail are heard and decided by this common order as the Applicants-accused are facing

the same charges for the offences punishable under Sections 302, 201 120(B), 143, 147, 148, 149 read with Section 34 of Indian Penal Code in C.R. No. 264 of 2015 with Yawat (Rural) Police Station.

2 It is the case of the prosecution that complainant Govind Popat Shinde on 5.08.2015 was contacted by Umesh Mahadev Shinde, who told him, he got some passengers for his Pick-up Van. However, he did not have licence and, therefore, he requested the complainant to do that job for him. On 5.08.2015 at around 10 pm, the complainant Govind Shinde along with Umesh Shinde, picked up the Applicants-accused and co-accused and Dhananjay Bhagwat Pawar and he was asked to take the Pick-up Van towards Yawat Malshiras Road. He was asked to stop the vehicle in the Bhuleshwar Ghat and at that time, another Applicant-accused Ganesh P. Shinde arrived there with deceased Chandrasen M. Ghute. The complainant was asked by co-accused to take away Pick Up Van near four kilometers and stop there. Therefore, thereafter the complainant Govind and Umesh Shinde both took Van four kilometers away and stopped there. However, thereafter one co-accused called Umesh on phone and asked them to bring back the Pick-up Van when Govind, the complainant,

went where the Applicant-accused and other persons were dropped. He noticed Chandrasen Ghute was lying with his face snare with blood. The Applicants-accused along with other accused lifted Chandrasen Ghute and kept him in the rear side of the Pick-up Van and asked the complainant to take the Van towards Yawat and after some time they threw Chandrasen towards road side and then came back to their Village Patharwadi. Thereafter he did not approach the police immediately and that as his conscious was biting, he approached the police twenty days thereafter i.e. on 25.08.2015 and an offence of murder was registered against the Applicant-accused and other accused. The Applicant-accused Dhananjay Pawar was arrested on 26.08.2015 and the Applicant-accused Ganesh on 3.09.2015. Hence this Bail Application.

3 The learned counsel for the Applicants-accused has submitted that co-accused Umesh Shinde and co-accused Balika Chandrasen Ghute are released on bail and, therefore, she seeks time. The learned counsel for the Applicants-accused has submitted that there is no evidence against the Applicants-accused. There is no eye witness to the incident. No weapon is recovered from the Applicants-

accused and, therefore, they are to be released on bail.

4 The learned Prosecutor has opposed the Bail Applications. He submits that there is a circumstantial evidence against the Applicants-accused. He submitted that the Applicants-accused, as per the statement of the complainant were seen last together with the deceased. He submits that the statement of the complainant was recorded under Section 164 of Code of Criminal Procedure and he has maintained his version. He submitted that the body of the deceased was found on 26.08.2015 and it was in decomposed condition. However, as per the PM reports the death occurred due to head injuries. It was due to poly-trauma.

5 Perused the FIR. Also perused the statements of the eye-witnesses. Prima facie, it appears that it is a premeditated murder. The Applicant-accused – Ganesh P. Shinde brought the deceased Chandrasen by motorcycle on the spot. Considering the details given by the complainant, it appears that there is sufficient circumstantial evidence against both the Applicants-accused and, therefore, prima facie, there is sufficient evidence. Moreover, the cases of Balika Ghute

and Umesh Shinde stand on the different footing considering the role attributed to them. Hence, both the Bail Applications are rejected. The learned Sessions Judge may endeavour to expedite the matter.

(MRIDULA BHATKAR, J.)