

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2203 OF 2016

1. Ravi Shyamveer Dangur	)	
2. Abhijeet Premnath Mishra	)..	Applicants
Vs.		
The State of Maharashtra	...	Respondent

Mr.Hingorani P. Sunder, Advocate for the applicants.
Mrs. P.P.Shinde,APP, for the State.
Mr. V.N.Bainwad, API, Tulinj Police Station, Nalasopara, present.

CORAM: SMT.SADHANA S.JADHAV, J.
DATE : 18th January, 2017.

P.C.

Heard. This is an application under Section 439 of Cr.P.C. The applicants herein are arrested on 18.3.2016 in Crime No.156 of 2016 registered at Tulinj Police Station, Vasai. The investigation is completed and charge sheet is filed against the accused-applicants on 9.6.2016 for the offences punishable under Sections 302, 404, 364, 120B, 201 read with Section 34 of the Indian Penal Code.

2. It is the case of the prosecution that on 18.3.2016, one Chandrashekhar Gupta lodged a report at the police station alleging therein that he happens to be the brother of Subhash @ Bhalu Gupta. That

Shubhash and his mother were running a distribution centre known as “Manali Mahananda”. That on 17.3.2016, his mother informed him that Subhash had left the house at about 2.30 in the afternoon and not returned home. She appeared to be worried because Subhash was addicted to alcohol. It was further informed that Santosh Yadav had seen Subhash in the company of Shiva Bhaiyya (absconding accused) while they were proceeding home after purchasing a bottle of beer. They had also learnt that they were proceeding towards the house of applicant No.1 Ravi Dangur. Hence, they had initiated search for Subhash. They had been to the house of Shiva Bhaiyya which was locked. In the meanwhile, Dashrath, who happened to be the brother of the first informant, had telephonically informed that he has received a reliable information that the dead body of Subhash is found in Flat No.206, Sai Chhaya Apartment at Nallasopra (East). It is alleged that there was a quarrel between Shiva Bhaiyya, Ravi, Abhijeet, Bangali and Subhash just a few days before the incident. On the basis of the said report, Crime No. 156 of 2016 was registered against the present applicants.

3. The papers of investigation would reveal that the investigating officer had recorded the statement of one Mahesh Rajput on 19.3.2016 i.e. on the very next day of the alleged incident. He had disclosed to the police

that on 17.3.2016, mother of deceased Subhash had informed him that the whereabouts of Subhash are not known. He had searched for them. Mahesh was acting as collection agent with Manali Mahananda. The mother of the deceased had directed him to collect the bills. Since Shiva Bhaiyya used to take milk from the said distribution centre, Mahesh had been to the said flat. He found it locked. In the meanwhile, they had learnt about the quarrel between Shiva Bhaiyya, the present applicants and Subhash @ Bhola and, therefore, Mahesh had been to the house of Shiva Bhaiyya twice during the course of the day. The third time they visited the said premises. They saw Bangali closing the door and latching it from outside. They had questioned Bangali. He had informed that there is nobody in the house. The said person along with other witnesses had opened the door and had found the dead body of Subhash in the said flat. As on today, Shiva Bhaiyya is absconding.

4. In the course of investigation, the investigating agency had also recorded the statements of neighbours of Shiva Bhaiyya, more particularly one Aakash Gupta, who was a school going student residing in Jivdani Chhaya Apartment, in close proximity to the house of Shiva Bhaiyya. According to him, he had met Shiva Bhaiyya on that day. Shiva

Bhaiyya had asked him to buy cheese butter and give the same in his flat. Shiva Bhaiyya had gone to purchase beer. Aakash had been to the flat of Shiva Bhaiyya where he had seen the present applicants. He had also seen a gunny bag in which one body was placed. Since he suspected, he questioned applicant No.1 about the same and he was promptly told not to interfere with their business. Similarly, there are other witnesses who had specifically stated that during the course of the day, they had seen the present applicants in the company of Shiva Bhaiyya and deceased.

5. In the course of investigation, there was a recovery of the keys of a motor-cycle allegedly belonging to the deceased and a golden chain worn by deceased at the behest of applicant No.2 under Section 27 of the Indian Evidence Act. This itself would establish that the applicant No.2 along with applicant No.1 had stolen a gold chain from the deceased and were having the keys of his motorcycle. There is sufficient incriminating material against the applicants which would clearly establish their involvement in the homicidal death of Subhash.

6. The learned counsel for the applicant submits that the applicants are young boys, they are students, they have no criminal

antecedents, that the investigation is completed and charge-sheet is filed, that they would be available for trial and hence they deserve to be enlarged on bail. The learned counsel for the applicant has also placed reliance upon a Judgment of the Hon'ble Apex Court in the case of **Bhagirathsinh Judeja v. State of Gujarat AIR 1984 SC 372** and has submitted that even assuming for the sake of argument that there is direct material against the applicants their incarceration would amount to punitive detention which would be unjustified and hence prayed that the applicants be enlarged on bail.

7. Taking into consideration the role attributed to the applicants, the incriminating material collected against them in the course of investigation, the brutality with which a young boy of 23 years old was killed over a trifling issue and then placed in a gunny bag in order to cause disappearance of evidence, the applicants do not deserve sympathy and leniency. Hence, the application being sans merits, stands rejected.

(SMT. SADHANA S.JADHAV, J.)