

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.2418 OF 2017

SADASHIV RAMESH BHOGATE)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.V.V.Purwant, Advocate for the Applicant.

Ms.J.S.Lohokare, APP for the Respondent State.

Mr.Narayan Deshmukh, Police Inspector, Manpada Police Station
present in the court.

CORAM : A. M. BADAR, J.

DATE : 17th NOVEMBER 2017

P.C. :

1 The applicant / accused in Crime No.I-193 of 2017 registered with Manpada Police Station, Thane, for offences punishable under Sections 320, 201 read with 34 of the Indian Penal Code (IPC) and under Sections 4 and 25 of the Arms Act, by this application is seeking his released on bail after filing of charge-sheet.

2 Heard the learned advocate for the applicant/accused. He argued that only evidence available, against the applicant/accused person, with the prosecution is that of their so called confessional statements heard by employees of the road side eatery and recovery of weapon from applicant/accused Sadashiv Bhogate. With this, he argued that as the investigation is over, the applicant / accused is entitled for bail.

3 The learned APP opposed the application by submitting that the applicant/accused is involved in three other offences and therefore, he is not entitled for bail.

4 I have carefully considered the rival submissions and also perused the entire charge-sheet. The crime in question is registered on the basis of report alleged lodged on 5th April 2017 by Vishnu Avhad, Assistant Police Inspector, Manpada Police Station. According to the prosecution case, on 5th April 2017, the applicant/accused and co-accused Anand Gunjal had been to the

road side eatery named Forest Hill Dhaba and during the course of ordering food items, they were talking to each other. Their conversation was to the effect that they were relieved from the trouble of Navghare and if he would not have been killed, he would have troubled the applicant/accused and the co-accused. After hearing this conversation, the waiters disclosed it to the owner of the road side eatery. Somebody then informed the police and that is how applicant/accused is apprehended.

5 Vithal Navghare, as seen from the charge-sheet, died homicidal death. According to the prosecution case, applicant / accused came to be acquainted with Vithal Navghare in the prison and after his release from the prison, Vithal Navghare was demanding money from applicant/accused Sadashiv Bhogate regularly. Therefore, applicant/accused Sadashiv Bhogate and the co-accused Anand Gunjal killed him by stabbing him with a knife on 4th April 2017. In support of the case of prosecution, the Investigator has recovered a knife stained with blood at the instance of applicant/accused Sadashiv Bhogate.

6 There is no evidence regarding the last seen theory. Evidence against the present applicant/accused is that of confessional statement heard by waiters and recovery of weapon at the instance of the co-accused as well as recovery of a weapon and clothes which were stained with blood. The Chemical Analyser's Report is not there with the charge-sheet. The recovery is from the open and accessible place. At pretrial stage, there is presumption of innocence of accused. The applicant / accused is stated to be having criminal antecedents but considering the nature of evidence against the present applicant / accused, criminal antecedents by itself cannot constitute a reason to deny liberty to the present applicant / accused. There is nothing tangible to infer that the applicant / accused will not be available for facing the trial and receiving the sentence, if any, ultimately imposed on him.

7 In this view of the matter, the following order :

ORDER

- i) The application is allowed.
- ii) The applicant / accused in Crime No.I-193 of 2017, registered with Manpada Police Station, Thane, for offences punishable under Sections 320, 201 read with 34 of the IPC and under Sections 4 and 25 of the Arms Act, is directed to be released on bail on his executing P.R.Bond in the sum of Rs.30,000/, and on furnishing surety in like amount.
- iii) The applicant / accused shall not tamper with the prosecution evidence.
- iv) The applicant / accused shall attend the trial court on each and every date of hearing and should not protract the trial.
- v) The application is accordingly disposed of.

(A. M. BADAR, J.)