

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION No. 2329 OF 2016

Shantaram Chindhu Gavari ...Applicant

Versus

State of Maharashtra ...Respondent

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Mr.Ashutosh R. Gole for the Applicant.
Mr. S.S.Pednekar, APP for the Respondent-State.

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CORAM : MRS.MRIDULA BHATKAR, J.
DATE : 28th February 2017

P.C.:

1. This application is moved by the applicant-accused as the applicant-accused is prosecuted for the offence of murder punishable under sections 302 and 201 of the Indian Penal Code in C.R. No. 74 of 2016 lodged on 29th March 2016.

2. It is the case of the complainant Laxman Budha Sable that his brother Chandrakant Budha Sable, the deceased was residing with his wife accused no. 3 Fasabai Sable and children at Sablewadi, Sangnore, Taluka -Junnar, District – Pune. His wife Fasabai and accused no. 2 Balram Padir were having illicit relationship. On 28th March 2016, the death body of Chandrakant Sable was found in stream. The body was identified by the complainant. After post mortem report, it was

found that it was a homicidal death. So, the offence was registered against the unknown persons initially. After investigation, the evidence was found against accused no. 3 Fasabai Sable and accused no. 2 Balram Padir of committing murder of Chandrakant Sable and therefore, the applicant-accused Shantaram Gavari was arrested on 2nd May 2016. Hence, this bail application.

3. The learned counsel for the applicant-accused has submitted that there is no evidence against the applicant-accused. He is innocent and he has not committed any offence. The prosecution has produced the evidence of only last seen together against the applicant-accused. Hence, he be bailed out.

4. The learned prosecutor opposed this application. He relied on the post mortem report. He submits that the deceased was brutally murdered and the accused nos. 2 and 3 were having illicit relationship. On 27th March 2016 at 8.00 p.m., the applicant-accused had called the deceased and he left the house of witness Haribhau Dagdu Bhalchim alongwith the deceased. The learned prosecutor further submits that there is a strong evidence of last seen together and therefore, the applicant-accused is not to be granted bail.

5. Perused the F.I.R and the statements of the witnesses, especially who have stated that the applicant-accused had called the deceased Chandrakant Sable and he took him outside the house on 27th March 2016 at around 8 p.m. Thereafter, on the next date at around 8.30 a.m., the death body of Chandrakant Sable was found in the stream. The post mortem report discloses that Chandrakant Sable died due to neurogenic shock followed by intracranial bleeding followed by head injury. A pointed weapon pierce in the eye of deceased which went through his brain and he succumbed to the injury. The murder was committed in very brutal manner. However, nothing is recovered from this applicant-accused. The prosecutor could not place any other evidence disclosing the *prima-facie* nexus with the applicant-accused and the offence of murder, though there is one circumstantial evidence of last seen together. No motive is shown by the prosecution. The charge sheet is already filed. In view of this, I grant bail to the applicant-accused on the followings terms and conditions:

ORDER

(i) The applicant-accused shall be released on bail upon furnishing PR. Bond in a sum of Rs. 50,000/- with one or two local sureties in the like amount.

(ii) The applicant-accused shall attend all the Court dates.

- (iii) The applicant-accused shall not tamper with the evidence or pressurize the complainant.
- (iv) The applicant-accused shall not commit any offence of similar nature.
- (v) The applicant- accused shall not jump the bail.
- (vi) The applicant shall not abscond or leave India without prior permission of the Court and furnish his permanent address to the Investigating Officer alongwith documentary proof of his address.
- (vii) 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.

6. Hence, this Bail Application stands disposed of in the above terms.

(MRIDULA BHATKAR, J.)