

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 2700 OF 2017

i) Rambhau Phulsingh Singh
ii) Anil Kumar Ratnakumar Singh
iii) Rohit Kumar Ranvilas Singh ...Applicants

Versus

The State of Maharashtra ...Respondent

WITH

BAIL APPLICATION NO. 2717 OF 2017

Satyendra Parshuram Singh ...Applicant

Versus

The State of Maharashtra ...Respondent

Ms.Pracheta Rathod for the applicants
Ms.P.P.Shinde, APP for the State.
Mr.S.R.Lokhande, API, Aarey Police Station

CORAM: A.M. BADAR, J.
DATED: 8th DECEMBER, 2017

PC:-

1. Applicants/accused in both these applications are accused in Crime No.85 of 2017 registered with Police Station Aarery for the offences punishable under Sections 302, 201, r/w 34 of the Indian Penal Code at the instance of Rajesh

Hotkar son of deceased Shardabai, by these applications are seeking their release on bail after filing of the charge-sheet.

2. Heard the learned advocate appearing for the applicants/accused. She argued that the missing report lodged by Rajesh Hotkar i.e. the first informant does not suspect the present applicants to be the persons behind missing of Shardabai. It is further argued that the entire charge-sheet does not disclose any event to infer that deceased Shardabai was lastly seen in company of the applicants/accused. Though the prosecution avers that the dead body was transported in the car which is seized during the course of investigation, the seizure panchnama does not show that there was any stains of blood in the Car. So far as the recovery under Section 27 is concerned, the learned advocate argued that the same is not substantiated by the report of forensic examination of the seized articles.

3. The learned APP opposed the application by submitting that evidence in respect of recovery effected from applicants/accused is sufficient to infer the knowledge of the applicant in the crime in question. Therefore, they are not entitled to be released on bail.

4. I have carefully considered the rival submissions and also perused the entire charge-sheet.

5. The report lodged by Rajesh Hotkar son of the deceased shows that deceased Shardabai was working as sweeper with a accompany named Option Primo at MIDC, Andheri. At about 4.30 p.m. of 30.7.2017 Shardabai left the house and went to Option Primo Company, where she was employed as a sweeper. As she did not return from the Company, her son Rajesh Hotkar lodged missing report. The FIR lodged by him shows that Rajesh Hotkar did not suspect any foul play in missing of Shardabai.

6. Dead body of Shardabai was found lying in bushes adjacent to the road leading to Kombatpada. She died homicidal death.

7. Perusal of the charge-sheet reveals that though statement of several witnesses working in MIDC Andheri are recorded by the prosecution, none of them had spoken about seeing the deceased in company of present applicants. Though it is averred that after committing murder of Shardabai, accused persons dumped her body in the boot of car bearing registration No. MH-04-HY-4552. Seizure panchnama of this car does not incriminates the accused. No stains of blood etc. was found either in the boot of that car or other portion of the car.

8. According to the prosecution case, at the instance of applicant Satyendra his T-Shirt, Jeans pant and an iron rod came to be recovered. The recovery panchnama did not show that either the iron rod or the T-shirt was stained with blood.

The recovery panchnama shows that at the bottom of the jeans pant seized at the instance of applicant Satyendra Singh, reddish blood stains was found. There is no further evidence to show that reddish coloured stains were that of a human blood and that blood matches with the blood group of the deceased. Even otherwise, undisputedly, only evidence available against accused persons is that of finding reddish coloured stains on the bottom of jeans pant recovered at the instance of the applicant/accused Satyendra. The other thing which can be noticed is finding of few scratches on the person of applicant Satyendra at the time of effecting arrest panchnama. No over bearing importance can be given to this recovery as it is unsupported by further evidence to connect the recovered articles with the crime in question and as there is no evidence to show that applicants were lastly seen in the company of the deceased soon before her death.

9. Considering this nature of evidence available against the present applicants and as there is no tangible material to

infer that they will not be available for trial, if released on bail, I see no reason to deny bail to them. Therefore, the following order:-

ORDER

- i) Both the applications are allowed.
- ii) The applicants/accused in Crime No. 85 of 2017 registered with Police Station Aarery for the offences punishable under Sections 302, 201 r/w 34 of the Indian Penal Code, be released on bail on executing their P.R Bond of Rs. 15,000-/ each and on furnishing surety in the like amount, by each of them.
- iii) The applicants / accused shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him from disclosing such facts to the court or to the Police Officer.
- iv) The applications are disposed of accordingly.

(A.M. BADAR, J)