

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2597 OF 2016

Santosh Yadav Sankhe	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

ALONG WITH
CRIMINAL APPLICATION NO. 155 OF 2017
IN
CRIMINAL BAIL APPLICATION NO. 2597 OF 2016

Mr. Hareshwar Atmaram Pimple	..	Intervenor
In the matter of :		
Santosh Yadav Sankhe	..	Applicant
vs.		
The State of Maharashtra	..	Respondent

Mr. Anilkumar K. Patil, Advocate for the applicant.
Mr. Lokesh Zade a/w Mr. Leroi Lobo a/w Ms. Nehal Thakkar for the Intervenor.
Ms. J.S. Lohokare, APP, for the State.

CORAM: SMT.SADHANA S.JADHAV, J.
DATE : 20th March, 2017.

P.C.

Heard. This is an application under Section 439 of Cr.P.C.
The applicant herein is arrested on 23.7.2015 in Crime No.97 of 2015 registered at Palghar Police Station. The investigation is completed and charge sheet is filed against the applicant and co-accused Samidha for the

offences punishable under Sections 302, 311, 120B read with Section 34 of the Indian Penal Code.

2. Deceased Samir Pimple happens to be the husband of the co-accused. It is the case of the prosecution that on 9.7.2015, Anuj, brother of Samir informed the police that his brother had fallen in the bathroom of the house. He was taken to Dhawale Hospital, where he was declared dead on admission. On the basis of the said report, A.D. No.32 of 2015 was registered under Section 174 of Cr.P.C. and investigation was set in motion.

3. On 11.7.2015, the statement of the father of deceased was recorded and he had disclosed to the police that his daughter-in-law Samidha had illicit relations with Santosh i.e. the present applicant. He had expressed his suspicion that Santosh and Samidha have eliminated his son Samir. On the basis of the said statement, Crime No.97 of 2015 is registered.

4. This Court, by an order dated 18.1.2017, had granted bail in favour of Samidha. It appears from the records that the opinion of cause of death as shown in the post-mortem notes is “due to sudden cardio respiratory arrest due to asphyxia of unknown origin.” Subsequently, the doctor had given his opinion that “the probable cause of death due to

suffocation by keeping pillow on nose and mouth” i.e. smothering. This Court had observed that there was no material on record to indicate that the paramour of the co-accused Samidha had visited the house of the co-accused Samidha soon before the death of Samir Pimple.

5. It is pertinent to note that the story of death by accidental fall was circulated by Samidha Pimple and the investigation had proceeded on the basis of the said information given in A.D. Enquiry. It is only after the father of deceased had expressed his suspicion, the direction of investigation had changed. The applicant was summoned to the police station. His statement was recorded as any other witness. The applicant had disclosed to the police that he had intimacy with the co-accused Samidha. That he had got married to her on 23.6.2015 and thereafter they had decided to eliminate Samir. That he had disclosed the several steps taken by him in order to eliminate Samir. That there was recovery at the instance of the present applicant. That on 9.7.2015, he had called upon Naseem Tailor enquiring about Samir and his activities on that day. The applicant and the co-accused had met at Just Cool Ice-cream Parlour. There is CCTV footage which corroborates the same. He visited the house of the co-accused. That they had chalked out a plan for eliminating Samir. Accordingly, the applicant had purchased hand gloves. That he had

smothered Samir with a soft stole. The records further corroborates the disclosure statement made by the applicant. The call details record of the applicant also indicate that he had in fact called upon Naseem tailor to enquire the whereabouts of Samir on that day and at the relevant time. The conduct of the accused-applicant needs to be taken into consideration. There is material to indicate that the applicant, in collusion with the co-accused Samidha, has eliminated Samir.

6. The learned counsel for the applicant submits that the case rests on circumstantial evidence and the statement of the accused cannot be taken into consideration as it would be inadmissible in evidence. The said submission can be considered at the time of trial. As on today, there is material to indicate that the applicant has caused the homicidal death of Samir Pimple. The conduct of the accused can be taken into consideration under Section 8 of the Indian Evidence Act. Hence, the application sans merit, stands rejected.

7. The application is rejected.

8. The Intervention Application is heard, allowed and disposed of.

(SMT. SADHANA S.JADHAV, J.)