

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 2627 OF 2016

Bhagwan s/o. Ganpat Kapre	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr. Arvind G. Ambetkar, Advocate for the applicant.
Mr. Vinod Chate, APP for the respondent/State.
Mr. P.V. Bhakt, P.S.I., Shikrapur Police Station present.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **4th January, 2017.**

P.C.:

This Application for bail is made by the applicant/accused in connection with C.R. No. 101 of 2016 registered at Shikrapur Police Station, Pune on 26th April, 2016. One Shantabai Dadabhau Jadhav gave information to the police that on the night intervening 25th and 26th April, 2016 when she was sleeping in the courtyard of the house of one Appa Dafal, suddenly she woke up as one person, who covered his face with handkerchief, tried to rob her ornaments. The thief demanded to give her gold ear rings, mangalsutra and gold ear chain. In the scuffle, she pulled the handkerchief from the face of the thief and she identified him as Bhagwan Jaywant Padwal, accused No. 1. When she cried for help, Appa Dafal intervened, however, accused No. 1 assaulted him with wooden stick and he succumbed to head injury on 28th April, 2016 in the hospital. The applicant/accused was arrested on the same day along with accused no.1 Bhagwan Padwal, as it was revealed that accused No. 1 has acted at the

instance of present applicant/accused. Hence, this Bail Application.

2. The learned counsel for the applicant/accused has submitted that the applicant/accused is falsely implicated in this case and there is no evidence against him.

3. Learned APP while opposing this Bail Application has relied on the supplementary statement of Shantabai Jadhav and also the statements of other witnesses who have stated that there was dispute between the complainant and applicant-accused and, therefore, with a view to harass her, the applicant-accused engaged accused no.1 Bhagwan Padwal to rob the ornaments on the person of the complainant. He submitted that Appa Dafal died in the robbery and thus, it is a case of murder under section 302 and also under sections 394 and 397.

4. Perused the FIR, statements of witnesses, supplementary statement of the complainant Shantabai Jadhav. The name of Bhagwan Padwal as a robber is appearing in the FIR itself. In the supplementary statement, Shantabai has mentioned the name of applicant-accused that there was dispute between her and applicant-accused and, therefore, he has given contract to accused No. 1 Bhagwan Padwal to rob her ornaments. At the time of incident, as per the evidence of the complainant, the applicant-

accused was standing away and watching the incident. Perused the statements of the neighbours, which reveals that the complainant and applicant-accused earlier were having an affair, however, their relations got strained and so out of vengeance, applicant-accused asked accused No. 1, who is history-sheeter, to rob her ornaments. Though deceased Appa Dafal was assaulted by accused No. 1 Bhagwan Padwal on his head and he succumbed to the injuries two days thereafter, at this stage, cannot be said was part of the conspiracy. The applicant/accused is arrested and he is in prison since 28th April, 2016. Considering the evidence available on record, I am inclined to grant bail to the applicant/accused on the following terms and conditions:

ORDER

- (i) Application is allowed.
- (ii) The applicant/accused be enlarged on bail on furnishing PR. Bond in a sum of Rs.30,000/- with one or two sureties in the like amount;
- (iii) The applicant shall not contact, threaten or harass the complainant in any manner.
- (iv) The applicant shall attend all the Court dates.
- (v) 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;

- (vi) 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.

- 5. The Application for bail stands disposed of on above terms.

(MRIDULA BHATKAR, J.)