

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.711 OF 2018

Satish Sadashiv More .. Applicant
Versus
State of Maharashtra .. Respondent

Mr. V.M.Thorat I/b. Sachin Thorat for applicant
Mr. Y.B.Dabke, APP for State.

CORAM : SMT. SADHANA JADHAV, J.

DATE : 31st July 2018.

P.C.

1] Heard. This is an application under section 439 of Code of Criminal Procedure. The applicant herein is arrested on 26th May 2017 in Crime No.165 of 2017 registered at Vairag police station on 25th May 2017 for offences punishable under sections 302, 201 read with 34 of Indian Penal Code. The investigation is complete and charge sheet is filed.

2] It is the case of the prosecution that the sister of the present applicant was married to Jayaram Lokhande more than 20 years ago. The couple is blessed with a son who is almost 19-20

years of age. In the past 20 years the sister of the present applicant is residing at her matrimonial house as he was not getting along with the deceased Jayaram Lokhande. It appears that she had subsequently filed an application under section 125 of Cr.P.C. That the family members of both sides were attempting to pacify the relationship between the couple.

3] It is the further case of the prosecution that in the night intervening 1st and 2nd May 2017, the dead body of Jayaram Lokhande was found abandoned at Village Sangamner, which is almost 56 kms. From Barshi.

4] It appears that initially, accidental death was registered under A.D.No.30 of 2017 at Vairag police station. That the statement of Tatyasaheb Lokhande was also recorded in A.D.R. 30 of 2017 on 2nd May 2017. He has disclosed to the police that he had learnt from his relative Vikas Lokhande that the dead body of Jayaram Lokhande was lying on Gaudgaon road. He has seen that Jayaram Lokhande had sustained head injury.

5] It is pertinent to note that on 25th May 2017, Tatyasaheb Lokhande lodged a report at police station alleging therein that he had learnt from reliable sources, in the interregnum, that on that relevant date i.e. 1st May 2017 the present applicant and Balasaheb Kashid were to meet Jayaram Lokhande at Barshi and they were to settle the dispute between Jayaram Lokhande and sister of applicant. Investigating agency has also recorded statements of Nitin Wagh and Narhari Kate who have disclosed that on the relevant date they had given lift to the present applicant who was proceeding to Barshi for settlement of dispute and there was also reference to Balasaheb Kashid. It is further stated that in the intervening night of 1st and 2nd May 2017 at about 4.30 a.m. Nitin Wagh had seen the present applicant in the company of Balasaheb Kashid. He had alighted from the Cruiser vehicle of Balasaheb who was also driving the said vehicle. It is further pertinent to note from the statement of Nitin Wagh was also recorded under section 164 of Cr.P.C. that he had met present applicant near Village Sakhat and that he had informed that he was proceeding towards Barshi. Nitin wagh had dropped the applicant at Barshi and, thereafter he does not know the whereabouts of the applicant.

6] Mr.Narahari Kate in his statement recorded under section 164 of Cr.P.C. had stated that at about 4.00 a.m. he had seen a Cruiser vehicle at Village Sakat and one Satish More alighted from the said vehicle and Balasaheb was driving the said vehicle.

7] Learned Counsel for the applicant accused submits that this cannot be considered as an incriminating material to infer that the deceased was last seen in the company of the accused person. The learned Counsel for the applicant has also drawn attention of this court to the certificate issued by the Hospital wherein the Medical Officer of the Primary Health Centre Gaudgaon stating that he would not be in a position to opine as to whether the injuries found on the person of the deceased while conducting autopsy were accidental or due to assault.

8] It is in these circumstances that the learned Counsel for the applicant prays for bail.

9] Upon taking into consideration the statement of witnesses under section 164 of Cr.P.C. prima facie, it cannot be said that the deceased was last seen in the company of the accused person i.e. the applicant. It would be a matter of hear say evidence and moreover the Doctor has failed to opine that it is the case of homicidal death. Hence, the applicant deserves to be enlarged on bail. The co-accused Balasaheb shall not claim parity with the applicant. Hence, the following order:-

- (a) The application is allowed;
- (b) The applicant is ordered to be released on bail in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (c) Within two weeks from being released, the applicant shall give an undertaking before the I.O. that he would attend each and every date before the sessions court;
- (d) Upon failure to attend any two consecutive dates, the prosecution would be at liberty to file an application under section 439(2) of Cr.P.C.

(SMT. SADHANA JADHAV, J.)