

Sequeira

*IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION*

CRIMINAL APPEAL NO. 915 OF 2018

Sachin Chandrakant Ganbote ... Appellant
Vs.
The State of Maharashtra and another ... Respondents

Mr.Kuldeep U. Nikam, for the Appellant.

Ms.M.M.Deshmukh, APP for Respondent-State.

***CORAM : S. S. SHINDE &
MRS.MRIDULA BHATKAR, JJ.
Date : September 21, 2018.***

P.C. :

The Appellant-Accused has moved this application as he is prosecuted for the offence punishable under section 302, 120(B) read with section 34 so also under section 3(2) (v) (va) of The Scheduled Castes and The Scheduled Tribes (Prevention of Atrocities) Act, 2015.

2. The incident of murder of one Sonal Sanjay Ahivale has taken place on 27 September 2017 and so the offence was registered as Crime No.326 of 2017 with Phaltan City Police Station. It is the

case of the prosecution that wife of the Appellant-Accused who is also Accused No.2 and the deceased were having illicit relationship. The Appellant-Accused had knowledge about this relationship and therefore, he decided to eliminate the deceased. The deceased was called by Accused No.2 at isolated place and thereafter, he was assaulted by the Appellant-Accused. The charge-sheet is filed. However the Chemical Analysis report is awaited. The Appellant-Accused has moved Bail application before learned Special Judge and Additional Session Judge, Satara below Exhibit 24 in Session Case No.36 of 2017 however, it was rejected on 22 January 2018, hence this Bail application.

3. The learned counsel appearing for Appellant-Accused has submitted that Appellant-Accused is innocent. He has not committed any offence. The evidence against Appellant-Accused is inadequate to hold him guilty. He has submitted that important piece of evidence i.e. Chemical Analysis report is not filed by the prosecution. There is no eye-witness and the case of the Prosecution is based on circumstantial evidence. The learned APP while opposing this Bail application has submitted that there is evidence of strong motive against the Appellant-Accused. She relied on the statement of one Rohit Vilas Ahivle and also statement of one Akram @ Manna Umar Shaikh. She pointed out that these two witnesses have stated that the deceased has confessed about his love affair with Accused No.2 i.e. the wife of Appellant-Accused. She pointed out in the

statement that these witnesses have stated that the Appellant-Accused has informed them and they had independent knowledge that the wife of the Appellant-Accused used to meet the deceased often and the Appellant-Accused has assaulted his wife-Accused no.2 and warned her not to keep such relations. She has further submitted that the Appellant-Accused himself has arrived at the police station after the body of the deceased was found and he informed the police that he has committed the murder of the deceased and thereafter police seized blood-stained clothes from his person and the Appellant-Accused has also produced an iron rod where red coloured stains were found. She however supported the order passed by the learned Special Judge, Phaltan rejecting the Application for bail.

4. We have considered submissions of both the parties. Appellant-Accused has arrived at the police station on the same day when the body of the deceased was found. The injuries due to assault were found on the back side of the head. There is material on record which prima facie discloses involvement of the Appellant-Accused in the crime. Though Chemical Analysis report is awaited the fact of the seizure of iron rod with blood stains and the seizure of blood-stained clothes on the person of the Appellant-Accused cannot be overlooked at this stage. The prosecution has also pointed out statements of the witnesses on the point of motive. In view of this, we are not inclined to entertain this Appeal. Hence dismissed.

5. The learned trial Judge to take note that the trial be expedited and be concluded preferably within one year from today and the Investigating officer is directed to collect the Chemical Analysis report at the earliest and submit it to the Special Court, Phaltan. Liberty granted to make fresh application to the trial Court, if not concluded within one year.

(MRS.MRIDULA BHATKAR, J.)

(S. S. SHINDE, J.)

Maria Luiza
Nicholas
Sequeira

Digitally signed by
Maria Luiza
Nicholas Sequeira
Date: 2018.09.27
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