

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 3040 OF 2017***

Shri Ravi Ramakant Jadhav

Applicant

Versus

The State of Maharashtra

Respondent

Mr.M.S.Mohite i/b. Mr. Vikas B. Shivarkar, for the applicant.

Mr.Y.M.Nakhwa,APP, for the State.

CORAM : SMT. SADHANA S.JADHAV, J.

DATE : 30th January, 2018.

P.C. :

1. Heard. This is an application under Section 439 of the Code of Criminal Procedure, 1973. The applicant herein is arrested on 22.5.2016 in Crime No.118 of 2016 registered at Khed Police Station, Pune, for the offences punishable under Sections 302 and 120B of the Indian Penal Code.

2. It is the case of the prosecution that on 20.5.2016, Chetan Suresh Pawar lodged a report at the police station informing therein that he had learnt at about 12 noon that an unidentified dead body of a male is lying in Gat No.14(4). On the basis of the driving licence and the election

card, the dead body was identified as that of Digambar Baban Kohinkar. It was apparent that Digambar died a homicidal death and, therefore, offence under Section 302 of the Indian Penal Code was registered against unknown person.

3. It is the case of the prosecution that Radhabai was married to Manohar. They were blessed with two sons. Radhabai had developed intimacy with Suresh Padwal, who happened to be the cousin of her husband. Digambar Kohinkar had employed Radhabai. Digambar had borrowed Rs.5 lakhs from the mother-in-law of Radhabai, who had agreed to extend the loan in order to keep her away from Suresh. Digambar was resident of Khed. Digambar had developed intimacy with Radhabai. Radhabai had eloped with Digambar. Thereafter, she had started staying with Digambar. Her brother as well as other relatives ,including Suresh Padwal were annoyed with her and Digambar. However, they were on talking terms with Digambar. Kundlik Rakshe happens to be the brother of Radhabhai.

4. In the course of investigation, the statement of Bajabai S. Padwal on 20.7.2016. According to her, on 19.5.2016, she had been to the house of her sister-in-law at Pabet Road, Taluka Khed. At about 8.30 to 9

p.m. they had gone for a stroll. Ranjana had been to a hotel to buy some eatables for her grandchildren, whereas Bajabai was standing outside the hotel. She saw Suresh Padwal going on a motorcycle. Digambar was the pillion driver and the present applicant was also a pillion rider. They had proceeded towards Talegaon. On 20.5.2016, she had returned home and then she had learnt that the dead body of Digambar was found at Takalwadi.

5. It is pertinent to note that the applicant was arrested on 22.5.2016, whereas the statement of Bajabai was recorded on 28.7.2016. The learned counsel for the applicant vehemently submits that for more than two months, Bajabai had not disclosed that the applicant was last seen in the company of deceased. Besides the statement of Bajabai, there is no material to hold that the applicant was in the company of the deceased soon before his death.

6. The learned counsel for the applicant vehemently submits that in fact, there were 3 persons on the motorcycle. The present applicant had accompanied Suresh Padwal and Digambar on the motorcycle only because his house was on the way. Suresh Padwal had dropped him at his house and

thereafter Suresh and Digambar had proceeded further. The applicant is the resident of Jadhavwadi, whereas the dead body was found in the jurisdiction of Mouje Takalwadi which is ahead of Jadhavwadi. It is submitted that the applicant is not the relative of either Radhabai or Kolhinkar. He had no grudge against Radhabai or the deceased neither he was a close associate of Suresh Padwal and hence e deserves to be released on bail. It is pertinent to note that there is no recovery from the present applicant.

7. The learned APP submits that the application filed by the co-accused i.e. Suresh Padwal was rejected by the Co-ordinate Bench of this Court vide order dated 11.7.2017 and hence the applicant also does not deserve to be enlarged on bail. As far as the case of Suresh Padwal is concerned, he was in relationship with Radhabai. He happened to be the cousin of the husband of Radhabai. Moreover, the statement of Appurva who happens to be the daughter of Digambar has disclosed that while leaving at 6 to 6.30 p.m., her father Digambar had disclosed to her that he had received a call from Suresh Padwal and was going to meet him. In case of Suresh Padwal, there is evidence of CDR records which shows that 4-5 calls were made by Suresh Padweal to the deceased on 19.5.2016 between 6 p.m.

and 8.30 p.m.

8. Hence, in the abovementioned circumstances, the case of the applicant deserves to be distinguished from the case of Suresh Padwal. He is only acquainted with the principal accused. There is material to show that it was Bharat, Suresh Padwal and Pudlik had assaulted Digambar. Hence, in the above mentioned facts, this Court is the opinion that the applicant deserves to be enlarged on bail.

ORDER

- (i) The application is allowed.
- (ii) The applicant be enlarged on bail on furnishing P.R.Bond in the sum of Rs.50,000/- with one or more solvent sureties in the like amount.
- (iii) The applicant shall not reside within the jurisdiction of Khed Police Station till framing of charge.

Application stands disposed of.

(SMT. SADHANA S.JADHAV, J.)