

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

Cri. BAIL APPLICATION NO. 446 OF 2019

Nilesh Narayan Shelar

... Applicant.

V/s.

The State of Maharashtra

... Respondent.

Mr. Raju D. Suryawanshi, Advocate, for the Applicant.

Mr. S.R. Agarkar, APP for the State.

(Mr. Ravindra S. Avhad, PSI, Ganeshpur Police Station, is present.)

CORAM : PRAKASH D. NAIK, J.

DATE : FEBRUARY 18, 2019.

PC :

1 The Applicant is arrested in connection with CR No. I- 40 of 2018, registered with Ganeshpuri Police Station, Palghar, Dist. Thane, for the offence under sections 302, 201, 120-B, 191, 316 & 318 of the Indian Penal Code.

2 The case of the prosecution is that the accused no. 1 was involved in committing murder of his wife in connivance with other accused. Accused no. 1 was suspecting character of his wife, who was killed in between the night of 09.03.2018 and 10.03.2018. The victim was strangulated and her body

was buried. The first information report was registered. During the course of investigation, the accused were arrested. The statements of the witnesses were recorded and on completion of investigation, the chargesheet is filed.

3 The case is primarily based on circumstantial evidence, as there was no eye witness to the incident. As far as the applicant is concerned, the prosecution is relying on the statement of Ganesh Narayan Gavali recorded on 31.03.2018. He stated that the accused and other accused were found discussing something on 08.03.2018 at about 7 p.m. and probably they were discussing about digging pit. The incident had occurred on 9th March, 2018 and the statements of the witnesses were recorded after about 20 days. Sandip Mahadu Bhoir has stated that he had seen accused no. 1 dropping accused nos. 2 and 3 on the scooty at early morning on 10.03.2018. The said statement was recorded on 31.03.2018. The prosecution also relied on other statements of witnesses recorded on 31.03.2018. The extra judicial confession of one of the accused was recorded, which according to the learned counsel for the applicant enumerates the role of the applicant.

4 Learned counsel for the applicant submits that the circumstances relied upon by the prosecution are not establish the involvement of the applicant in the crime. The call data record does not match with the prosecution case. The tower

location also do not connect applicant being present at place of crime. The call data indicates that two calls were recorded on 07.03.2018 and 8.03.2018 between the applicant and the accused no. 1.

5 Learned APP, however, submits that the statement of witnesses shows that the applicant was part of conspiracy. The call data record shows the involvement of the applicant in the crime. The applicant has criminal antecedents. He is involved in the case registered under section 307 of the Indian Penal Code. The victim was pregnant at the time of the incident.

6 As indicated above, there is no eye witness to the incident. The statement of the witnesses were recorded belatedly and in any case the said witnesses do not depict strong circumstances about involvement of the applicant in the crime. There is no recovery of any nature from the applicant. According to the prosecution, the applicant has shown the place of incident where the body of the victim was buried. However, the evidence indicates that the police were aware about the said place in question. Investigation is complete and the chargesheet is filed.

7 Taking into consideration the nature of the evidence, the case for grant of bail is made out. Hence, I pass following order :

ORDER

- i. Bail Application is allowed.
- ii. The Applicant is directed to be released on bail in connection with CR No. I-40 of 2018, registered with Ganeshpuri Police Station, on his furnishing PR Bond in the sum of Rs. 25,000/- with one or more sureties in the like amount.
- iii. The Applicant shall report concerned Police Station once in a month, on first Saturday of the month between 11 a.m. to 1 p.m. till further orders.

(PRAKASH D. NAIK, J.)

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