

HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 831 OF 2019

Eknath Natha Pandit

... Applicant

Versus

The State of Maharashtra

... Respondent

Mr. Kuldeep S. Patil, Advocate for the Applicant.

Ms. S. S. Kaushik, APP for the State/Respondent.

M.K. Pathan, HC-968, Nerul Police Station, Navi Mumbai.

CORAM :- SARANG V. KOTWAL, J.

DATE :- 17th July, 2019.

P. C. :-

1. The applicant is seeking bail in connection with CR No. I-52/2018 registered at NRI Sagari Police Station, Dist. Raigad. The offence pertains to murder of one Gajanan Chaudhari. The deceased Gajanan was addicted to liquor and was kept in a rehabilitation center run by one Dr. Nilesh Doke. He had died in suspicious circumstances on 25th February 2018. Dr. Doke brought his dead-body to his house. Dr. Doke's conduct was suspicious. All relatives of deceased present in the house became suspicious and informed the police. The dead body was sent for postmortem. Postmortem notes revealed that he was

strangled. Therefore, FIR was lodged vide CR No. 52/18 at the police station by sister of deceased by name Kalpana. In her FIR she has mentioned that in October 2017, deceased was admitted to the rehabilitation center run by Dr. Doke. On one occasion, deceased had escaped from that center, but he was again admitted there. On 18th February 2018, the family members of the deceased went to meet him, but Dr. Doke did not allow them to meet him on the pretext that it would interfere with deceased's rehabilitation.

2. On 26th February 2018, Dr. Doke brought his dead body to his house and informed the family members that he had suffered heart attack. There were signs of assault on the dead body. On further questions by the family members of the deceased, Dr. Doke got frightened and tried to run away from there. He was detained and police were informed. Thereafter, FIR was lodged.

3. The investigation was carried out. Apart from Dr. Doke, present applicant and one Kabir were arrested in this case. The applicant and Kabir were attendants in that rehabilitation center. Investigation was carried out and the charge-sheet was filed. The applicant was arrested on 1st March 2018 and since then he is in custody. The charge-sheet contains the statement of the wife of the deceased and other relatives.

They basically narrated the same story as is described in the FIR. The postmortem notes shows that the deceased had suffered many injuries all over his body, particularly on his neck and stomach. There were in all more than 15 injuries. The final cause of death was reserved, but postmortem notes mentioned that there was a ligature mark around the neck with multiple injuries on the body. Obviously, the deceased was assaulted and strangled. The applicant is said to be connected with the murder because he was one of the attendants who was working in that rehabilitation center.

4. Heard, Mr. Patil, learned counsel for the applicant and Ms. Kaushik, learned APP for the State.

5. Mr. Patil submitted that, this case is based on circumstantial evidence. There was no eye witness. The applicant is arrested on suspicion only because he was working in that center. He submitted that apart from the present applicant there were other employees working in that center. Therefore, according to him, the applicant did not have custody of the deceased.

6. Learned APP relied on the statement of wife, Sharda, of the deceased. Sharda has stated in her statement that, one day prior to the incident, i.e., on 25th February 2018 she and her brother Pradeep

Chaudhari had gone to meet the deceased. At that time, one Supriya Gole had got the form written by this witness outside the building. They met the present applicant. He asked them to wait in a room on the ground floor. He brought the deceased. Deceased had talked with this witness and her brother. At that time, the present applicant and one more attendant were in the room. According to her, one more attendant by name Deepak, was also present. It is her case that the deceased told her that there were malpractices going on in that center and he would give the details on the next day. According to Sharda, this conversation was heard by the applicant and others. The prosecution case is that because of this the deceased was assaulted and murdered so that the malpractices remained a secret.

7. Learned APP also relied on the order passed by this court on 14th December 2018 in bail application no. 2260/18 whereby Dr. Doke's bail application was rejected. However, his case stands on a different footing than that of the present applicant. Dr. Doke had created and used a forged death certificate. He had given wrong information to the relatives of the deceased. The deceased was in his custody. His entire conduct was indicative of his involvement and guilt.

8. There is a statement of one Mhaske, who had stated that the

present applicant had informed him telephonically that some incident had occurred in respect of deceased. However, that circumstances by itself may not be incriminating against the present applicant. The deceased had died in suspicious circumstances and the applicant had conveyed this fact to this witness Mhaske. The previous day's conversation was heard by the applicant and others including Dipak. That circumstance is also can not be said to be incriminating against applicant. There is nothing to show that the applicant was responsible for any malpractices or was benefited by such malpractices. The applicant did not have any motive to commit the murder. The applicant had not prevented the deceased from meeting his relatives on the previous day. Unlike Dr. Doke who did not allow the relatives to met the deceased.

9. All these circumstances will have to be established during trial. However, considering weak nature of evidence against the applicant, he had made out a case for his released on bail. Hence, the following order:-

ORDER

- (i) In the event of his arrest in connection with CR No. I-52/2018 registered at NRI Sagari Police Station, Dist. Raigad,

the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs. 25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.

(ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)