

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.1429 OF 2019

Bapurao Bhanudas Chatte] ... Applicant

Versus

The State of Maharashtra] ... Respondent

Mr. Sandeep Bali, Advocate for the Applicant.

Smt. J.S. Lohokare, APP for the State/Respondent.

Mr. Vilas Bansode, HC 1242 attached to Tembhurni Police Station present.

CORAM :- SARANG V. KOTWAL, J.
DATE :- 13th SEPTEMBER, 2019.

P. C. :-

1. The applicant is seeking his release on bail in connection with C.R.No.06/2019 registered with Tembhurni Police Station, Solapur Rural u/sec.302 of I.P.C.

2. The applicant was arrested on 04/01/2019 and since then he is in custody. The investigation is over and the charge-sheet is already filed.

3. The FIR in this case is lodged by widow Shubhangi Godase of

the deceased Mahadev Godase. She has stated in her FIR that, on 03/01/2019 the deceased has left his house at around 10.00 p.m. to watered his crop in the agricultural field. He did not return for quite some time. The informant tried to contact him telephonically at around 11.30 p.m., but there was no response. Therefore, the informant went towards their field with her nephew Balu Deokar. On the way she found that, the deceased was lying in a pool of blood and he had suffered injuries on his head. He was immediately removed to the dispensary of Dr. Patil. But the doctor declared him dead. In the FIR, she has further mentioned that, there was a dispute between the present applicant and the deceased in respect of the approach road through their respective fields. On 11/11/2018, the applicant had obstructed the deceased while he was working in his field. The FIR mentioned that, the applicant as well as the deceased had given their complaints in the police station. On this basis, the informant expressed strong suspicious against the present applicant and lodged this FIR.

4. Heard Mr. Sandeep Bali, Ld. Counsel for the Applicant and Smt.J.S. Lohokare, Ld. APP for the State/Respondent.

5. Ld. Counsel for the applicant submits that, this is a case of circumstantial evidence and there are absolutely no circumstances against the present applicant which can be termed as incriminating circumstances. He submitted that, the previous minor dispute cannot formed basis of conviction. He therefore submitted that, the applicant deserves to be released on bail.

6. Ld. APP submitted that, the dispute between the deceased and the applicant had led to an incident on 11/11/2018 and within about One and half months this incident has taken place. Therefore, at this stage because of the earlier incident motive is clearly made out.

7. I have considered these submissions. The charge-sheet contains the summary of investigation. There is some reference to the applicant's defence that, the deceased was having extra marital affair with the wife of one of his workers and that could be the cause of his murder. However, there was no further investigation in that direction.

8. The charge-sheet contains statements of family members and relatives of the deceased. These witnesses are Chandrakant @ Balu

Deokar, Anand Godase, Balasaheb Nanavare, Waman Godase and Balbheem Kshirsagar. All these statements mention the same story as is narrated in the FIR. This statements do not take the prosecution case any further.

9. The postmortem notes shows that, the deceased had suffered as many as 15 injuries mainly on the head, hands and legs. The cause of death was mentioned as “Cardiorespiratory arrest due to neurogenic and hypovolumic shock due to sharp injury to scalp and blunt trauma to brain. The final opinion is reserved as viscera sent for chemical analysis”.

10. Thus, there is no doubt that, the deceased was brutally assaulted. However, the question is whether the applicant has committed that murder and what is the material against him in the entire charge-sheet. Besides FIR and the statements referred to herein above, there are copies of two non cognizable cases registered by the deceased and the applicant against each other. The applicant has lodged his NC on 12/11/2018 and the deceased has lodged his NC on 11/11/2018. This shows that, there was some dispute between the applicant and the deceased in respect of the approach road to their

fields. However, at this stage it is difficult to observe that, these circumstances can furnish sufficient motive to the applicant to commit murder of the deceased. After sufficient opportunity the investigating agency has not been able to collect any other evidence against the present applicant in the form of recovery of any incriminating article or in the form of any other incriminating circumstances. Considering this weak nature of evidence against the present applicant, the applicant deserves to be released on bail. Hence, the following order.

ORDER

1. The Applicant is directed to be released on bail in connection with C.R.No.06/2019 registered with Tembhurni Police Station, Solapur Rural, on his furnishing P.R.Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
2. Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)