

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.1404 OF 2018

Shivaji Vaijnath Gaikwad, Age 46 years,
R/o.Babu Dandekar Chawl, Ketkipada,
Dahisar (E), Mumbai-68.

Applicant

versus

The State of Maharashtra

Respondent

Mr.Kuldeep Patil I/by Manisha Devkar for applicant.

Mrs.G.P.Mulekar, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 16th January 2019

PC :

1. This is an application for bail u/s 439 of Code of Criminal Procedure, 1973 in connection with CR No.I-22 of 2017 registered with Manor Police Station, Palghar for offences under Section 302 r/w 34 of Indian Penal Code.

2. The applicant is arrested on 20th February 2017. The case of prosecution is that the informant is the resident of Haloli-Padospada, Post Dahisar tarphe Manor, Tal. Palghar. He used to attend Samaj Mandir regularly. He was returning with his friends on 20th February 2017 after attending the meeting at Samaj Mandir. They were proceeding by walk on Mumbai-Ahmedabad highway. On the way they found one person lying on the road. It was observed that he was not breathing. Hence, the complainant called his brother, who came on the spot and gave intimation to police. It was found that the person was strangulated. Noticing that the person was dead, the FIR was registered u/s 302 of Indian Penal Code. On completing the investigation charge sheet has been filed.

3. during the course of investigation it was revealed that the name of deceased was Pandurang Phad who was residing near Khargu Pada, Ghodbundar Road, Thane. It is alleged that wife of the deceased namely Gajashri (accused no.3) was also residing with him. She was having illicit relationship with one Ankush. The statement of said person was recorded as a witness in which he has disclosed that Gajashri (accused no.3) was insisting him that he should marry her. She had also disclosed that the deceased wanted to marry her sister and on that ground there used to be quarrels. It is stated that there is conspiracy between accused no.3 and other accused. Accordingly the husband of accused no.3 was strangulated with nylon rope and he was dumped on the road.

4. The deceased was working as Conductor in State Transport, at Thane. He was identified on the basis of chit found in his pocket. The case of prosecution is that accused no.3 has given Rs.10,000/- to applicant for liquidating her husband. The case is based on circumstantial evidence. There is no eye witness to the incident. The truck was seized during the course of investigation. The prosecution is relying on the fact that there were calls between the applicant and accused no.3 and that the applicant had received Rs.10,000/-. Learned counsel for applicant submitted that accused no.3 and the applicant are from the same village and calls between the applicant and accused no.3 were much prior to the date of incident.

5. Learned APP submitted that receipt of amount of Rs.10,000/- and CDR record shows involvement of the applicant. It is noticed that apart from the aforesaid evidence, there is no strong evidence to

show involvement of the applicant. The case is based on circumstantial evidence. The applicant is in custody from the date of arrest. Investigation is complete and charge sheet is filed. In the circumstances, case for grant of bail is made out. Hence, I pass following order ;

ORDER

- (i) The applicant is directed to be released on bail in connection with CR No.22 of 2017 registered with Manor Police Station, Palghar, on furnishing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (ii) The applicant shall report the Manor Police Station once in a month on every first Saturday between 11 am and 1 pm till further orders;
- (iii) The applicant shall not tamper with evidence and shall attend Trial Court proceedings regularly, unless exempted by the Trial Court for some reason;
- (iv) Criminal Bail Application No.1404 of 2018 is disposed off.

(PRAKASH D. NAIK, J.)

MST