

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.1595 OF 2019

Mohammed Jenif Hanif Ansari] ... Applicant

Versus

The State of Maharashtra] ... Respondent

Mr. Ashraf Shaikh, Advocate for the Applicant.

Mr. Prashant Jadhav, APP for the State/Respondent.

API R.M. Giri attached to Dighi Police Station present.

CORAM :- SARANG V. KOTWAL, J.
DATE :- 5th JULY, 2019.

P. C. :-

1. The applicant is seeking bail in connection with C.R. No.211/2018 registered with Dighi Police Station, Pune u/sec. 302, 201 r/w 34 of I.P.C. Section 403 of I.P.C. was added subsequently.

2. The investigation in this case is already over and charge-sheet is already filed. The applicant was arrested on 24/08/2018 and since then he is in custody.

3. The FIR in this case is lodged by Police Constable Dinkar

Gawade. He has stated that, on 10/08/2018, one Abdul Kalam Subhedar Ansari had lodged complaint in respect of missing of his son Aalam Abdul Kalam Ansari since 06/08/2018. He had left the house with one Santosh Yadav on that day at about 3.00 p.m. and since then he had not returned. Accordingly, missing complaint was registered vide no.74/2018. The police were investigating into that complaint. During investigation, they came to know that about 7 to 8 months prior to that, Santosh Yadav was assaulted by a girl's father. Santosh Yadav had misbehaved with that girl. At that time, Santosh Yadav carried an impression that the deceased Aalam Ansari was behind that assault. On further investigation, it was noticed that, on 08/08/2018, amount of Rs.10,000/- was withdrawn from ATM of Canara Bank, Adarsh Nagar, Dighi. CCTV footage of that ATM machine was checked when it was found that the present applicant had withdrawn that amount. Therefore, the applicant was called at the police station and police made inquiry with him. The charge-sheet shows that on that day itself a statement was made by the applicant mentioning his willingness to show the place where the dead body of Aalam Ansari was concealed. That statement was recorded and applicant led the police party and panchas towards Pune Aalandi Road, Dattagad. That

area was reserved for the training of military officers. At his instance a highly decomposed dead body was found. Since, it was strongly decomposed the opinion regarding cause of death was reserved as viscera was not available. The bones were preserved for DNA analysis. The charge-sheet contains another statement of the present applicant recorded u/sec. 27 of the Indian Evidence Act leading to recovery of knife from the bushes at the place shown by the present applicant. These are the incriminating circumstances against the applicant.

4. Heard Mr. Ashraf Shaikh, Ld. Counsel for the Applicant and Mr.Prashant Jadhav, APP for the State/Respondent.

5. Ld. Counsel for the applicant submitted that there is no direct evidence against the present applicant. The main allegation is against Santosh Yadav who being a Juvenile is already on bail. He further submitted that the applicant was regularly using the ATM Card of the deceased because the applicant was not having a separate bank account and therefore withdrawal of such amount is not an incriminating piece of evidence because nobody including the present

applicant knew that the deceased had died on 06/08/2018. He further submitted that recovery of knife is also not an incriminating circumstance.

6. As against this, Ld. APP submitted that the present applicant was identified in the CCTV footage. At this stage, this fact cannot be disputed. The very fact that the amount was withdrawn and was sent by the applicant to his mother and given to the co-accused Santosh Yadav is also an incriminating piece of evidence.

7. Having considered all the circumstances against the present applicant, the most incriminating circumstance is the discovery of the dead body at the instance of the present applicant. For many days, that is from 06/08/2018 till 21/08/2018 the deceased was not traced. The dead body was discovered in a secluded area reserved for training of military officers at the instance of present applicant. This fact has remained unexplained on the part of the applicant. Apart from that the weapon is recovered at his instance. Therefore, at this stage there is sufficient material to show the complicity of the present applicant in the present crime. In this view of the matter, no ground for

applicant's release on bail is made out. Hence, the following order.

ORDER

Application is rejected and stands disposed of accordingly.

(SARANG V. KOTWAL, J.)