

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

CRIMINAL BAIL APPLICATION NO. 902 OF 2020

Rahul Chandu Rathod .. Applicant

V/s.

The State of Maharashtra ..Respondent

CRIMINAL BAIL APPLICATION NO. 901 OF 2020

Sanjay @ Appi Bhoju Rathod .. Applicant

V/s.

The State of Maharashtra ..Respondent

Mr. Jaydeep Mane for the Applicant.

Mr. Y. M. Nakhwa, APP for the Respondent-State in BA/902/2020.

Mr. H. J. Dedhia, APP for the Respondent-State in BA/901/2020.

CORAM : C.V. BHADANG, J.

**DATE : 26th October, 2020
(Through Video Conferencing)**

P.C.

1. The Applicants (accused Nos. 3 and 4) are facing prosecution for the offence punishable under Section 302, 201 and 120-B of I.P.C. for having intentionally caused the death of Shailesh Ghongade. Incidentally, the deceased Shailesh, happened to be the son of accused No.1. It appears from the prosecution case that the deceased was mentally challenged and had become a nuisance to

both the family members and the villagers and it is stated that accused No.1, father of the deceased, had hatched the conspiracy to eliminate the deceased with the help of accused No.2 Shankar Vadge and the present Applicants.

2. I have heard, the learned counsel for the Applicants and the learned A.P.P. With the help of the learned Counsel for the parties, I have gone through the record.

3. In this case, the investigation is complete and the chargesheet is filed. The learned Counsel for the Applicants pointed out that the accused No.1, who according to the prosecution, was the brain behind the conspiracy, has been released on bail by the learned Sessions Judge. Insofar as the present Applicants are concerned, the only material, which was pointed out is that as per the tower location, the accused Sanjay Rathod was shown to be present in the vicinity of the spot, where Shailesh was allegedly done to death by strangulation.

4. The learned A.P.P. also pointed out that the statement of Samadhan, who is the brother of the deceased. That statement is recorded on 23.02.2020 i.e. about three weeks after Shailesh went

missing on 28.01.2020 and his dead body having been found on 29.01.2020. Prima facie after going through the statement of Samadhan, it does not appear that he is or could be a witness to the conspiracy. It was not disputed that Samadhan is not an eye witness. Prima facie, it is difficult to see what is the source of information of Samadhan to claim that the deceased was assaulted by the present Applicants. It was fairly not disputed on behalf of the prosecution that except the statement of Samadhan, there is no other material to show the complicity of the present Applicants in the offence. The case is based on circumstantial evidence as there is no eye witness account of any assault by the applicants on the deceased.

5. Considering the over all circumstances, I find that Applicants are entitled to bail. Hence, the following order.

ORDER

i) The Applicants be released on bail on executing a PR Bond in the sum of Rs.25,000/- each with one or two solvent sureties each in the like amount.

ii) The Applicants shall undertake to remain present before the learned Sessions Judge, during the course of trial.

iii) The Applicants shall not directly or indirectly tamper with the prosecution evidence/witnesses.

iv) In the event of breach of any of the conditions, the bail is liable to be cancelled.

v) Bail bonds to be furnished before the learned Sessions Judge.

vi) Criminal bail applications are disposed of in the aforesaid terms.

C.V. BHADANG, J.