

VPH

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Cr. Bail Application No. 3584 of 2019

Shrikant @ Shiru @ Dadya
Chandrakant Bandpatte ... Applicant
Vs.
The State of Maharashtra ... Respondent

Mr. Ritesh M. Thobde, for the Applicant.
Mr. Y. M. Nakhwa, APP for the Respondent - State.

CORAM : C. V. BHADANG, J.

DATE : SEPTEMBER 9, 2020
(Through video conferencing)

PC :

1. This is an application for bail. The applicant (accused No. 4) alongwith co-accused has been charge-sheeted for the offence punishable under S. 302, 201, 107, 120-B read with S. 34 of I.P.C. According to the prosecution, the applicant alongwith co-accused in furtherance of their common intention had intentionally caused death of one Annasaheb Ghodake.

2. In this case, the dead body of Annasaheb Ghodke was found in the field of one Dilip Mane on the Solapur – Mangalwedha road in the morning on 2nd July, 2019. According to the complaint, lodged by Anita Ghodke, the wife of the deceased, Annasaheb Ghodke was done to death during the period from 8.15 p.m. on 1st July, 2019 to

7.00 a.m. on 2nd July, 2019. The deceased was the son of accused No. 5 Malan and brother of accused No. 6 Shobha. According to the prosecution, the deceased under the influence of liquor used to harass accused Nos. 5 and 6 and it was accused Nos. 5 and 6 who alongwith co-accused, which includes the present applicant, had hatched the conspiracy to eliminate the deceased. It is the specific prosecution case that the deceased was assaulted by accused Nos. 1 to 4 with a stone and his dead body was thrown by the side of the road.

3. I have heard the learned counsel for the applicant and the learned Additional Public Prosecutor for the respondent State. I have gone through the record.

4. On hearing the learned counsel for the parties, it appears that the prosecution case is essentially based on circumstantial evidence, and particularly the last seen together theory. Apparently, the FIR lodged by Anita is against some unidentified persons and does not name any of the accused. The learned APP has taken me through the statement of Suraj Patil, who is working as a waiter and Samadhan Kamble, who is working as a manager with Hotel Samadhan, in order to submit that statement of these witnesses prima facie shows that the deceased was in the company of the applicant and others on 1st July, 2019 at about 8.30 p.m. It is submitted that the following morning, the

dead body of the deceased was found. I have carefully gone through the statement of these two witnesses. Prima facie, it appears that none of these witnesses were previously knowing the applicant. The learned APP fairly conceded that there is no test identification parade conducted in this case. In fact, the record discloses that a letter to that effect was written on 19th September, 2019 by API, Kamti Police Station, intimating that the Taluka Magistrate would be holding the identification parade on 21st September, 2019. The record of the present application further discloses that on 27th February, 2020, the matter was adjourned at the request of the learned APP to take instructions, as it was stated that identification parade was likely to be conducted shortly. However, no test identification parade was conducted, for the reasons best known to the investigating officer.

5. I have also gone through statement of police constable Pramod Shimpale. His statement does not prima facie reveal that he had noticed the deceased to be in the company of the applicant and the co-accused. The investigation is complete and the charge-sheet is filed. The learned Sessions Judge has refused to release the applicant on bail, for the reason that there is a possibility of pressurising or tampering with the prosecution evidence / witnesses. Having regard to the overall circumstances, in my view, any such apprehension can be

taken care of by imposing appropriate conditions.

6. In the result, the following order is passed.

ORDER

- (i) The applicant be released on bail on executing a P.R. bond in the sum of Rs.25,000/- with one or more sureties in the like amount, before the learned Sessions Judge.
- (ii) For the present, the applicant is permitted to furnish the cash surety in the sum of Rs. 25,000/- for a period of eight weeks before the learned Sessions Judge, after which the applicant shall furnish PR / SB, as above.
- (iii) The applicant shall attend the concerned Police Station on every first Saturday of the month between 11.00 a.m to 1.00 p.m until further orders.
- (iv) The applicant shall not influence or tamper with the prosecution evidence or witnesses in any manner.
- (v) In the event of breach of any of the conditions, the bail is liable to be cancelled
- (vi) The criminal application is disposed of in the aforesaid terms.

Sd/-
C. V. BHADANG, J.