

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 51 OF 2020

Gopal Waman Jadhav

....Applicant

v/s.

The State of Maharashtra

....Respondent

Mr. Ganesh Bhujbal, Advocate for the applicant.

Mr. Y.M. Nakhawa, APP for the State.

Dy.SP. Narayan Shirgaonkar, Baramati Police
Station present.***CORAM : SANDEEP K. SHINDE, J.******Tuesday, 25th February, 2020.*****P.C. :**

1. Heard.

2. Applicant is seeking his enlargement on bail in Sessions Case No. 63/2019 arising out of Crime No.187/2018 registered with Bhigwan Police Station for the offences punishable under Sections 302, 201 of the Indian Penal Code.

3. It is prosecution's case that on, 11th September, 2018 one, Shubhangi Kisan Jagtap, reported to the police that, dead body of an unknown person aged about 40 to 45 years was lying on Pune-Solapur Highway towards Bhigwan end at a distance of 200 meters from Highway Police Beet; Whereupon, an offence under Section 302 came to be registered against unknown persons. Autopsy surgeon opined and reported probable cause of death was due to "fractured occiptal and frontal bone" and corresponding injuries were found and noted in coloumn-7 of the post-mortem report.

4. It appears that, one Sunil Jagtap, a Constable attached to Highway Police Chowky while on patrolling duty on 10th September, 2018 was informed by one unknown person that one dead body was lying at a distance of 200 meters from the chowky and had also informed that he had seen three persons passing nearby the place on motorcycle, FZ-S identified by word "Dosti" written on its number plate. Taking cue from this input, the motorcycle (FZ-S) was traced, allegedly owned by the applicant and subsequently, the applicant and

the co-accused were arrested on 11th September, 2018.

5. To show the complicity of the applicant in the commission of the crime, the prosecution has relied on the statement of two witness; one is of Shahid Shaikh recorded on 13th September, 2018 and another, Rajendra Kadam on 20th December, 2018. It is Shahid's statement that, on 10th September, 2018 when he was passing through the place where the dead body was found lying, he had seen the incident, in the focus of carlight, while three persons were assaulting the deceased by fist and kick-blows and one of them was assaulting by stone. Subsequently, in the test identification parade held on 4th October, 2018, Shahid Shaikh, had identified the applicant as one of those three persons. I have perused the statement of second eye-witness, Rajendra Kadam wherein, contradictions relating to incident are apparent on the face of it and therefore, it may not be appropriate to consider his statement at this stage. Thus, only the statement of Shahid Shaikh is available for consideration. It may be stated

that, statement of this witness was recorded on 13th September, 2018 who had allegedly seen the applicant and the co-accused while they were assaulting the deceased and that too in car light focus and subsequently he had identified the applicant in the test identification parade after long time of his arrest. Therefore, except the statement of Shahid, which has been recorded nearly after one month from the date of the arrest of the applicant, there is no other evidence to connect the applicant to the present crime. Besides, there are no criminal antecedents against the applicant. It may also be stated that, prosecution till date, could not establish or reveal the identity of the deceased. The investigation in the case is over. That in view of the nature of accusations and the material available for consideration, in my view, a case is made out to release the applicant on bail and hence the following order :

(i). The applicant arrested in C.R. No. Crime No.187/2018 registered with Bhigwan Police Station, is directed to be released

on bail on furnishing P.R. Bond of Rs.50,000/-(Rs.Fifty Thousand only) with one or two sureties in the like sum.

(ii) The applicant shall report to the Investigating Officer twice a month i.e. second and fourth Monday of each month commencing from March, 2020 till the charge is framed between 11:00 to 1:00 p.m.

(iii) The applicant shall furnish the particulars of his place of residence and contact details to the Investigating Officer of the Police Station concerned within seven days from his release on bail.

(iv) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

9. It is made clear that observations made hereinabove shall be construed as expression of

opinion only for the purpose of granting bail and the same shall not in any way influence the trial in other proceedings.

10. The Bail Application is allowed and disposed off in the above terms.

(SANDEEP K. SHINDE, J.)