IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 1818 OF 2019

Govind Arjun Takbhate .. Applicant

Vs.

The State Of Maharashtra .. Respondent

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Mr. Anil Shitole, Advocate for Applicant.
Smt. A. A. Takalkar, A.P.P. for the State-Respondent.
PSI More Swargate Police Station present.

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CORAM : PRAKASH D. NAIK, J.
DATE : 5th FEBRUARY 2020

PC.

1 The applicant has preferred this application for bail under Section 439 of Criminal Procedure Code in C. R. No. 51 of 2017 registered with Swargate Police Station, Pune city for offences punishable under Sections 302, 201, 363, 364, 120 (B) read with Section 34 of the Indian Penal Code (for short “IPC”).

2 The prosecution case is that, on 06th January 2017, mother of Ashwini Pardeshi reported to the police station that her daughter Ashwini is missing from 05th January 2017. Missing report was registered. On 10th February 2017 Swati Govind Takbhate, who is the first wife of the Applicant and sister

of Ashwini, lodged the report alleging that, she was married to Applicant on 01st March 2009 at Alandi. Later on, Ashwini came to know that the Applicant had performed his second marriage in 2010. In the event of dispute between complainant and the Applicant, Ashwini used to warm Applicant that if he fail to take care of complainant, she would be taken with children to his mother. The Applicant had grudge against Ashwini. It is further alleged that, Ashwini had affair with one Nadim Shaikh which was not liked by Applicant. In December 2016, Applicant had assaulted the complainant and at that time, Swati had warned him. The Applicant threatened deceased Ashwini. On 05th January 2017 Ashwini went to visit Dhayari. She left by auto. Applicant left the house and returned at 11:15 p.m. The Applicant again left the house at about 02:00 a.m. by two wheeler. Ashwini had not returned home. Nadim Shaikh revealed that, Ashwini was with him till 06:30 p.m. and at that time she had told him that Applicant is waiting for her near Sarasbaug Pune. Nadim had dropped her at Sarasbaug on his two wheeler. The offences were registered under Section 363, 364 read with Section 34 of IPC. During investigation, Applicant was arrested. It was revealed that, the Applicant had grudge against Ashwini.

He along with juvenile-in-conflict with law picked up Ashwini from Sarasbaug and took her in a tempo driven by the juvenile. Ashwini was assaulted on her head. On 06th January 2017, the Juvenile and Applicant buried dead body of deceased Ashwini on the side of Chakan-Talegaon Road. On 11th January, 2017 the accused decided to burn dead body of Ashwini at Ashta Tal. Bhum, by exhuming it from the place where it was buried. The accused took dead body to Khandvi, Tal. Barshi for burning it in the field of accused no.4-Balalji Chorghade. Thereafter, the Applicant, accused no. 2 and accused no. 4 as well as juvenile went to the place where the dead body was buried and it was taken to the field of accused no. 4 and burned. On the basis of disclosure statement of Applicant, the place of incident was revealed and the pieces of bones were recovered. The offences were registered under Sections 302, 201, 120 (B) of IPC.

3 The Applicant preferred an application for bail before the Sessions Court which was rejected on 11th July, 2018.

4 Learned counsel for the Applicant submitted that, the Applicant is not concerned with death of deceased. There is no eye witness to the incident. Case is based on circumstantial

evidence. There is no direct evidence against the Applicant. The statement leading to discovery of incriminating articles of the deceased is not admissible in evidence. The recovery of burnt pieces of hairpin from open place cannot be relied upon. The Applicant is in custody from two and half years. The Applicant is arrested on suspicion. Co-accused Gaulan Takbhate, Sagar Mulik and Balaji Chorghade were released on bail.

5 Learned APP submitted that, prima facie case is made out against the Applicant. There is evidence of last seen together that the Applicant and the deceased would together before she went missing. The tower location of the deceased Ashwini and the Applicant is same, on 05th January 2017. Offence is serious in nature. The victim was killed in the cruel manner. She was buried and subsequently burnt. The conduct of Applicant is cruel. He tried to destroy the evidence. Charge is framed against the accused. The Applicant is main accused. The Applicant is not entitled for bail on the parity.

6 On perusal of the charge-sheet, it is apparent that, missing report was lodged by mother of deceased. Swati Takbhate, wife of Applicant lodged the report that the Applicant

had abducted Ashwini. Swati Takbhate is married sister of Ashwini and Applicant had performed second marriage. In the event of any dispute between Swati and the Applicant, Ashwini used to question Applicant. According to prosecution, the Applicant had grudge against Ashwini. It was revealed during investigation that dead body was disposed of with the help of co-accused. The place of incident was shown by the accused. The Applicant however, contended that the said evidence is not admissible in law. Prima facie there is evidence against the Applicant showing his involvement in the crime. Hair clips of the deceased found at place where body was brunt were identified. It was revealed during investigation that, deceased and the accused were at same tower location. Nadim Shaikh has disclosed that, he had dropped Ashwini at Sarasbagh. She had received call from Applicant. She left with the Applicant. Personal search of the Applicant was conducted vide panchnama dated 12th February 2017 and he was found in possession of mobile phone having sim card no. 7887773434. The victim was murdered and she was buried. Subsequently, the body was removed and then she was taken to another place. Then the body was burnt. Statement of Bhagwan Tathe was recorded on 15th

February 2017. He has stated that, mother of Applicant had called him on 11th January 2017. He was informed that the Applicant and co-accused Aditya Gilbile @ Mauli had murdered Ashwini and body is buried at Talegaon-Chakan road and hence, decided to visit the said place and avoided the police complaint. Thereafter, they went to the said place. On the way dog was killed to mislead the police. The dog was drown at the place where the body was buried. Statement of Akash Pawar was recorded on 15th February 2017. He has stated that, on 10th January 2017 mother of Applicant came to the office and she told them that pan stall had installed at Dehu road and requested them to accompany her. They proceeded with the accused. Accused then put Murum at the place shown by the Applicant. Subsequently, the witness was told that one girl was murdered and her body is burnt. There is evidence of CCTV footage, which fortified statement of Vikas Kale dated 29th March 2017. The accused had visited the petrol pump for purchasing diesel. There is sufficient evidence to show that the Applicant is involved in the crime and hence no case for grant of bail is made out.

ORDER

(i) Bail Application No. 1818 of 2019 is rejected.

(ii) Trial is expedited.

(PRAKASH D. NAIK, J.)