

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

BAIL APPLICATION NO.2364 OF 2019

Umesh @ Aba Jagannath Bhosale	.. Applicant
<i>Vs.</i>	
State of Maharashtra	.. Respondent

.....

Mr.Vikas B. Shivarkar, Advocate for the Applicant.
Mr.H.J. Dedhia, APP for the Respondent – State.

.....

CORAM : PRAKASH D. NAIK, J.

DATED : FEBRUARY 28, 2020.

P.C. :

This is an application for bail in connection with C.R.No.66 of 2018, registered with Sangmeshwar Police Station, Ratnagiri, for the offences punishable under Sections 302, 201, 120-B, 420, 467, 468, 471 and 472 of Indian Penal Code (“IPC”, for short). First Information Report (“FIR”, for short) was lodged on 3rd July, 2018, by the Police Head Constable attached to Sangmeshwar Police Station, Ratnagiri. The applicant was arrested on 6th August, 2018.

2 The case of the prosecution is that missing complaint was lodged with N.M. Joshi Marg Police Station, Mumbai on 19th March, 2018. Deceased Smita Kusurkar had left house on 11th

July,2018. Thereafter, she did not return home. The husband lodged missing complaint. Subsequently, the information was received that the victim has executed some land transactions at Sangmeshwar, Ratnagiri and there is likelihood that she must have visited the said place. N.M. Joshi Police Station forwarded letter to police alongwith the missing complaint and the letter forwarded by the son of the victim dated dated 24th July, 2018. Subsequently, it was found on secret information that one person has arrived in Ratnagiri and his movement is suspicious. He was apprehended. He disclosed his name as Shrikant Ghadashi. He was interrogated. During interrogation, he disclosed that he had called the victim. She was taken to the place of incident under the pretext of showing the property and that she was pushed in the quarry and killed by throwing stones. At his instance, dead body of the victim was recovered. It is also alleged that the applicant had money transactions with the deceased. He had obtained Rs.25,00,000/- from her. There was property transactions. Agreement / Memorandum Of Understanding was executed between them with regards to loan availed by the applicant. It is also alleged that fake transaction was executed for purchase of property with the deceased in the name of the person who was dead. The deceased had realised about false transaction

and she was demanding money from the applicant. Hence the applicant and accused no.1 Shrikant Ghadsahi had acted in connivance with each other and committed her murder. Applicant was arrested. Investigation is completed, and the charge-sheet is filed.

3 The applicant had preferred application for bail before the Sessions Court, which was rejected. Hence, he had preferred this application for bail.

4 Learned advocate for the applicant submitted that there is no cogent evidence against the applicant to establish his complicity in the crime. Except suspicion there is no evidence against him. There is no evidence of conspiracy. Accused no.3 and 4 are granted bail. There are no calls between applicant and accused no.1 Shrikant Ghadsahi on the date of incident. There is no eye witness to the incident. There is no incriminating recovery from the applicant. His presence is not established at the scene of the offence. Merely on account of the previous transactions with the deceased, the applicant has been arrested. Prosecution is relying upon statement of the co-accused which is not admissible in evidence. The place of offence was disclosed at the instance of

the co-accused. Applicant is in custody from the date of arrest, hence, he may be released on bail.

5 Learned APP submitted that the case is based on strong circumstantial evidence. The applicant had motive to kill the deceased. He was involved in executing bogus transactions with the deceased. At his instance, the agreement for sale was executed with the deceased by impersonating the owner of the land in connivance with accused nos.3 and 4. The applicant has also received huge amount from the deceased, which was not returned to her. The son of the deceased in a letter addressed to the police dated 24th July, 2018, has stated that the victim had called him and informed him that she is visiting Sangmeshwar, Ratnagiri and that she has also referred to transactions with the applicant. Missing complaint was filed. There was conspiracy between the applicant and accused no.1. The deceased was killed at the instance of the applicant.

6 I have perused the documents on record. There is no eye witness to the incident. It is not established that applicant was present at the time of the alleged incident. The deceased had left the house on 11th July, 2018. The missing complaint was filed

by husband. The said complaint do not raise any suspicion against the applicant. The said complaint was filed on 16th July, 2018. It is pertinent to note that in the letter to police written by son of the deceased, he had stated that the deceased had informed him that she is meeting applicant and that she is going to Konkan. If the son of the deceased was aware, as stated by him in letter dated 24th July, 2018, that his mother is meeting the applicant, the said fact should have been disclosed to his father and the same should have been reflected in the missing complaint dated 16th July, 2018. Prosecution is relying upon transaction executed between the applicant and the deceased. There are previous complaints lodged by the deceased against the applicant. According to the complaint the applicant had threatened the deceased that in the event she keeps on demanding money, he would commit suicide. The complaint do not mention that she was intimidated by applicant. The statement of the bank manager was recorded during the course of investigation. The bank statement of the applicant indicate that there was a transaction of about Rs.3,80,000/-. Notice was sent to the applicant through advocate by the deceased with regards to the money transaction. The statement of accused no.1 is not admissible in evidence. Thus, the case proceeded on suspicion against the applicant. There is no

call record, tower location, recovery or any incriminating evidence establishing that the applicant was either present at the scene of offence or he was instrumental in killing the deceased. In the circumstances, further detention of the applicant is not called for and case for grant of bail is made out.

7 Hence, I pass the following order:

:: ORDER ::

- (i) Bail Application No.2364 of 2019, is allowed;
- (ii) Applicant is directed to be released in connection with C.R.No.66 of 2018, registered with Sangmeshwar Police Station, Ratnagiri, on his executing P.R. Bond in the sum of Rs.25,000/-, with one or more sureties in the like amount;
- (iii) Applicant shall report concerned police station once in a month on first Saturday of the month between 11:00 a.m. to 01:00 p.m., till further orders;
- (iv) Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)