

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

CRIMINAL BAIL APPLICATION NO.2501 OF 2019

Mahadev Ramchandra Sankapal

....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Satyavrat Joshi i/b. Sunil S. Kamble, for the Applicant.

Mr. S. S. Pednekar, APP for the Respondent- State.

CORAM : PRAKASH D. NAIK, J.

DATE : 20th January, 2020

P.C.:

1. The offence is registered in respect of death of one Shivaji Jadhav. Initially the accidental death report was registered on 17th September 2018 after dead body was discovered from a river bed. He had suffered injuries on his head and other parts of body. The postmortem conducted on the dead body, shows that the death was caused due to head injury with fracture of frontal parietal bones coupled with intra cerebral hemorrhage. He had suffered six external injuries, mostly on the head and face. There was fracture of his hand as well.

2. The ADR was lodged on the basis of statement given by Shankar Jadhav, who is cousin of deceased Shivaji. He had stated in the ADR that one Vikas Shingte had informed them that deceased

was lying dead in a small stream known as Torna Stream below a bridge. At the time of lodging of FIR, he had not given any further details and had not expressed suspicion against anyone.

3. On 21st September 2018, the FIR was lodged at the instance of the same person Shankar Jadhav vide C.R.No.127/18 under Sections 302, 201, read with 34 of the IPC.

4. In his FIR, the first informant had stated that deceased had left his house at around 8.30 p.m. on 16th September 2018 and thereafter had not returned. The informant was told by Vikas Shingte that deceased was lying dead in the river bed of Torna River and thereafter dead body was discovered and postmortem was conducted. It is further mentioned in the FIR that deceased was having enmity with one Mahadev Sapkal because Mahadev was suspicious that he was having illicit relationship with his wife. The FIR mentions that the police were making inquiries about the death of Shivaji Jadhav and they came to know that Gausulazam Salim Diwan, Ganesh Yadav, Rohit Gaikwad and present applicants had committed this offence. It was mentioned in the FIR that applicant had hired Gausulazam and other accused for Rupees one lakh twenty thousand and thereafter Rupees sixty thousand were paid for commission of Shivaji's murder.

5. Investigation is carried out applicant was arrested. The investigation is over and charge-sheet is filed. It is mentioned in the gist of the prosecution story in the charge-sheet that applicant was on visiting terms with deceased Shivaji Jadhav. He had given Shivaji's name to the accused Gausulazam for commission of murder. The said accused alongwith the present applicants and others had hatched conspiracy to commit murder of deceased.

6. It is alleged that, On 16th September 2018, the accused called deceased Shivaji for consuming liquor and for dinner. He was taken to a room of one Vidyadhar Kulkarni. He was made to consume liquor and after he was sleeping, the accused smothered him with a pillow. He was taken to a bridge on Torna river and was thrown in the river. Motor cycle was thrown from the bridge, purportedly making a show of accident. The charge-sheet contains statement of various witnesses. There are no eye witnesses to the incident. Therefore, the prosecution case is based on purely circumstantial evidence.

7. The case of the prosecution against the applicant is that, the applicant was suspecting that deceased was having illicit relationship with his wife. Hence, he had hatched conspiracy with the co-accused Gausulazam Diwan who engaged hirelings to

liquidate Shivaji (deceased). This Court vide order dated 01st August 2019, granted bail to Abhijeet Kamble and Ganesh Yadav. This Court also granted bail to Rohit Gaikwad by order dated 22nd August 2019. This Court while granting bail had observed that, the evidence adduced against them is insufficient to show the links if there is murder of deceased. As far as applicant is concerned, the prosecution is relying upon the statement of wife of the applicant, Vishal Mali and Dattatraya Patil. It is alleged that the applicant had handed over the cheque of Rs.60,000/- to Gausulazam which was given by him to Vishal Mali and the said cheque was deposited by Vishal in his name and the amount was credited to his account. It is alleged that, the applicant is concerned with the Rajarambapu Sahakari Bank, Vishal Dudh Utpadak Sansta and the cheque was drawn by him. The assailants are granted bail by this Court. The Court has observed that, the circumstances used by the prosecution against the assailants are doubtful. There are no antecedents against the applicant. On the basis of the nature of evidence adduced against the applicant, further detention of the applicant is not called for. The case for grant of bail is made out.

ORDER

- (i) Bail application No. 2501 of 2019 is allowed.

- (ii) The applicant is directed to be released on bail in connection with C.R.No.127 of 2018 registered with Shirala Police Station District- Sangli, on furnishing P.R. bond in the sum of Rs.25,000/- with one or more sureties in the like amount.
- (iii) The applicant shall report concerned police station once in a month on every first Saturday between 10:00 a.m. to 12.00 p.m. till further order.
- (iv) Applicant shall stay out of the jurisdiction of Shirala Police Station for a period of six months.
- (v) Applicant shall attend the trial Court regularly on the date of hearing of the case, unless exempted by the trial Court for some reason.
- (vi) Applicant shall furnish the details of place of residence to the Investigating Officer after he is released on bail.
- (vii) Bail Application No.2501 of 2019 stands disposed of.

(PRAKASH D. NAIK, J.)