

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

BAIL APPLICATION NO.3236 OF 2019

Sagar Pundlik Shinde

.. Applicant

Vs.

State of Maharashtra

.. Respondent

.....

Mr.Kedar Jaysing Patil, Advocate for the Applicant.

Mrs.Veera Shinde, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATED : JANUARY 29, 2020.

P.C. :

This is an application for bail in connection with C.R.No.191 of 2018, registered with Shahpur Police Station, District-Kolhapur, for the offence punishable under Section 302 read with 34 of Indian Penal Code (“IPC”, for short). First Information Report (“FIR”, for short) was lodged on 13th December, 2018, by the father of the deceased against unknown person.

2 The complainant has stated that on 12th December, 2018, his son Amol did not return. At about 01:00 a.m. the Sarpanch of the village visited his house and told him to accompany him. They went to Ayodhya Nagar, village Khetwadi.

He noticed his son lying dead in injured condition. The dead-body of his son was taken to the hospital for postmortem. Supplementary statement of complainant was recorded on 13th December, 2018. In the said statement, he stated that his wife told him that on 12th December, 2018, at about 10:15 p.m. Sagar Shinde (applicant) had visited their house and inquired about Amol. He was looking angry. The complainant learnt that the applicant and his brother Sonya Shinde had not returned home and he suspected that they must have killed Amol. Applicant was arrested on 14th December, 2018. On completing investigation, charge-sheet is filed.

3 Learned counsel for the applicant submitted that the entire case is based on circumstantial evidence. There is no eye witness to the incident. There is no recovery of weapons from applicant. Although cloths were recovered at his instance, there was no blood stains on the cloths. The evidence in the form of last seen together is weak and would not be sufficient to establish charge against the applicant.

4 Learned APP submitted that there are strong circumstances showing involvement of the applicant in the crime. Applicant had motive to kill the deceased. There is evidence of

last seen together. Learned APP relied upon the statement of Deepak Waghmode dated 13th December, 2018, and, submitted that the deceased was in company of the applicant and Aakash alias Sonya Shinde. They left together at about 10:30 p.m. on motorcycle. Supplementary statement of the said witness was recorded. It is further submitted that statement of Gajanan Nalge dated 13th December, 2018, also refers to the fact that on the day of incident, the accused were found together at about 10:15 p.m. Reliance is also placed on statement of Vishal Chougule, who has stated that applicant, Akash Shinde and Prakash Veerbhadre were together on 12th December, 2018 at about 9:30 p.m. At that time, he heard applicant saying that he would find out whether Amol is at home. The cloths of the applicant were recovered. His statement indicate that the deceased was frequently demanding money and on that count he was killed. There was recovery of motorcycle in the crime and the cloths of the applicant. It is further submitted that statement of mother of the deceased was recorded in which she has stated that the applicant had inquired about the whereabouts of Amol at about 10:30 p.m. on the day of incident. He, thereafter, submitted that this circumstances establishes the involvement of the applicant in the crime.

5 I have perused the charge-sheet. FIR is lodged against unknown person. Undisputedly, there is no eye witness to the incident. There is no evidence to establish presence of the applicant at the scene of offence. The prosecution is heavily relying upon the evidence in the form of last seen together. Deepak Waghmode, has stated that on 12th December, 2018, at about 10:30 p.m., he saw applicant, Aakash, one unknown person and Amol Chavan (deceased). They were proceeding towards Tardal road. He noticed the same from the light of his vehicle. According to him, four persons were preceding on motorcycle. It is pertinent to note that according to the statement of mother of the deceased, applicant had visited the house to inquire about Amol at 10:15 p.m. It is not clear as to how within short span of time the deceased was seen in the company at the place referred to by Deepak Waghmode. Statement of Vishal has stated that the applicant and others were together at about 9:30 p.m. on 12th December, 2018, and, that he heard applicant saying that he would find out whether the deceased was at home. Beyond that he did not heard anything about plan to assault the deceased. The motive also appears to be weak as it is prosecution case that the deceased was demanding money repeatedly and hence, he was liquidated. Panchanama do not indicate that there was blood on

the cloths, although it is mentioned that there were some stains over the cloths. Thus, the circumstances are not sufficient to further detain the applicant in custody. He is arrested on 14th December, 2018. Charge-sheet is filed. Hence, case for grant of bail is made out.

6 Hence, I pass the following order:

:: ORDER ::

- (i) Bail Application No.3236 of 2019, is allowed;
- (ii) Applicant is directed to be released on bail in connection with C.R.No.191 of 2018, registered with Shahpur Police Station, District-Kolhapur, 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 10:00 a.m. to 12:00 noon, till further orders;

(iv) Applicant shall not tamper with the prosecution evidence;

(v) Bail Application stands disposed of.

(PRAKASH D. NAIK, J.)