

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

BAIL APPLICATION NO.3311 OF 2019

Vijaysinha Bhaskar More ... Applicant
Vs
The State of Maharashtra ... Respondents
...

Mr. Umesh H. Pawar for the Applicant.
Ms. P.P.Shinde , APP for the Respondent-State.
PI C.B.Landge, Mankhurd Police Station present.

CORAM : SANDEEP K. SHINDE J.
DATE : 31st JANUARY, 2020

P.C. :

Heard.

2 Applicant is seeking his enlargement on bail in Crime No.38 of 2019 registered with Mankhurd Police Station for the offences punishable under Sections 365, 302, 364, 201, 120B read with Section 34 of the Indian Penal Code, 1860 and Section 66(C) of the Information Technology Act. Investigation in this case is over and charge-sheet has been filed. I have perused it.

3 Applicant is third accused. On 16th November, 2018, brother of the deceased had reported that her sister was missing since 14/15th November, 2018 and that her whereabouts could not be traced. However, her brother noticed that someone had withdrawn a certain amount from savings bank account of his deceased sister and, therefore, he lodged the complaint on 5th February, 2019 under Section 365 of the Indian Penal Code, 1860. In the investigation, it was revealed that bank account of the deceased was operated by the accused no.2. Investigation suggests the deceased had love affair with the accused no.1, who was infact married to somebody else and that accused no.1 declined to marry deceased, when the deceased allegedly persuaded and persisted accused no.1 to marry her. It is, therefore, alleged that accused no.1 conspired with the accused nos.2 and 3 to eliminate the deceased.

4 Prosecution had relied on voluntary disclosure memorandum of the accused no.1 recorded on 7th February, 2019 to implicate the applicant in the subject crime. Except this disclosure statement, there is no material on record to connect and/or to show the complicity of the applicant either in hatching conspiracy to eliminate the deceased or his participation in the execution of the conspiracy. Though the prosecution has relied on the alleged recovery of cash from the applicant, which was allegedly withdrawn by accused no.2, no other material has been placed before the Court.

5 Prosecution, therefore, could not point out any incriminating circumstances to suggest complicity of the applicant in the subject crime. Admittedly, prosecution case rests on circumstantial evidence.

6 Thus, in view of the evidence on record and additionally, since the investigation is over and applicant's presence for the trial can be secured by

imposing suitable conditions, this application is allowed. Hence, the following order:

ORDER

(i) The applicant be enlarged on bail in Crime No.38 of 2019 registered with Mankhurd police station, on executing PR Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount;

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

7 The application is accordingly disposed of.

8 It is made clear that observations made hereinabove 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.

(SANDEEP K. SHINDE, J.)