

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.68 OF 2021

RAMESH BAPURAO GUNJKAR

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. S.C. Bhosale, Advocate for the applicant

Mr. A.M. Phule, APP for the respondent

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 17th MARCH, 2021.

ORDER :

1 Present applicant has been arrested, in connection with Crime No.155/2020 dated 07.07.2020 registered with Umari Police Station, Dist. Nanded, for the offence punishable under Section 302, 201 of The Indian Penal Code, 1860. He has filed present application for bail under Section 439 of the Code of Criminal Procedure, 1973.

2 Heard learned Advocate Mr. S.C. Bhosale for the applicant and learned APP Mr. A.M. Phule for the respondent.

3 It has been vehemently submitted on behalf of the applicant that the investigation is over and charge sheet has been filed before Judicial

Magistrate First Class, Umari. The applicant was arrested on 12.07.2020 and he is in Magisterial Custody since 16.07.2020. The deceased was the husband of co-accused No.2. Perusal of the First Information Report would show that the informant is the land owner, with whom deceased was doing labour work since about a month prior to the incident. It would show that the said FIR is against unknown persons. He has stated that on 06.07.2020 deceased Maroti went to him and told that he would go to the agricultural land and he requested informant to take his son i.e. Rameshwar to Bhokar for medical advise. Informant then gave his bullocks to Maroti and told him to plough the land. Informant went to Bhokar along with the son of Maroti and one Gangadhar Laxman Jadhav. He had contacted Maroti at about 2.30 p.m. on his mobile and asked, as to how much amount he should give to son of Maroti. After he gave the amount to the son of deceased, he told the son of deceased that he should have a shopping and go to his house directly. Informant came back to village at 5.30 p.m. and he noticed that his bullocks and Maroti had not returned from the land. It was told by one Datta Gumalwad that his bullocks have stuck near a tree, but Maroti is not accompanying them. Informant went to said place and he found that his bullocks were stuck to the tree in the field of one Ramdas Bandor. He searched for Maroti along with him. He had taken certain persons to search Maroti but then they could found his dead body in the field of one Datta

Shivram Shrikhande.

4 After giving the said story the learned Advocate appearing for the applicant submits that there is no direct evidence against the applicant and the statements of witnesses appear to be hearsay. The son of the co-accused No.2 and Maroti's father are contending that there was illicit relations between the accused No.1 and 2 and Maroti had objected to the said relationship, and therefore, those accused with the help of this applicant had eliminated Maroti. Except words there is nothing in their statements under Section 161 of Cr.PC. Since the investigation is over the applicant be released on bail.

5 Per contra, the learned APP strongly opposed the application and submitted that the statements of the witnesses would definitely show that all of them were aware about the illicit relationship between the accused Nos.1 and 2. The family members as well as the respectable persons from the village have stated that Maroti had objected to the illicit relationship, and therefore, even the respectable persons from the village had given understanding to accused No.2. Even the son of the accused No.2 is aware about the illicit relationship. There is discovery of shirt having blood stains from present applicant. The clothes on the person of the deceased, at the time of commission of crime, are also recovered. Further, accused No.3 i.e. present applicant has also discovered the white colour handkerchief, by

which the deceased was strangled. Though stone was thrown on the deceased for committing his murder; yet, he was strangled, which shows that he had intention not to leave any room for life in deceased. It is a brutal murder, and therefore, he does not deserve to be released on bail.

6 At the outset, it can be seen that now the investigation is over and even the charge sheet is filed, therefore, the further physical custody of the present applicant is not required for the purpose of investigation. Now, as regards the evidence, that has been, collected against the present applicant is concerned, it consists of discovery and statements of witnesses. The FIR is against unknown person. The case is based on circumstantial evidence. The Post Mortem Report would show that the death of Maroti is homicidal in nature. The discovery of handkerchief as well as shirt is from present applicant. Now, as regards the statements of witnesses are concerned, statement of the son of accused No.2 would show that he was aware about the alleged illicit relationships between the accused Nos.1 and 2. His age is 14 years and admittedly he is not the eye witness to the murder. Same is the case with the father of the deceased. Statements of these two persons have been recorded under Section 161 of Cr.P.C. as well as under Section 164 of Cr.P.C. There is statement of one Hanmant Kanole, who has stated that around 5.00 p.m. he had seen accused No.1 and accused No.3 in the field of one Anandrao Jadhav. He had talked with accused No.3. However, he does

not say that he had seen those persons going in the field of Shrikhande. Therefore, this witness appears to be not even on the point of last scene together. He was the person, who had given advise to the accused Nos.1 and 2 to give up their illicit relations. The other witnesses also appear to be on the same point. Further, there is statement of one Bhimrao Rathod, who had seen accused No.1 and accused No.3 together. They had gone to the shop of Bhimrao Rathod under the influence of liquor to purchase hen. There are statements of many persons, but all of them appear to be stating that they had heard about the incident. Prosecution is not clear, even in charge-sheet, as to what is the motive for this applicant to commit murder of Maroti. Merely because he is friend of accused No.1, whether he would take part in commission of murder, is the question, which prosecution should solve by adducing evidence. He is not even resident of Ballal, Tq. Bhokar. Therefore, with such evidence the applicant deserves to be released on bail, however, on stringent conditions. It is necessary to restrain him from going to village Ballal. Hence, following order.

ORDER

1 Application stands allowed.

2 Applicant Ramesh Bapurao Gunjkar, who has been arrested, in connection with Crime No.155/2020 dated 07.07.2020 registered with Umari

Police Station, Dist. Nanded, for the offence punishable under Section 302, 201 of The Indian Penal Code, 1860, be released on P.R. of Rs.50,000/- (Rupees Fifty Thousand only) with two solvent sureties of Rs.25,000/- (Rupees Twenty Five Thousand) each.

3 The applicant shall not tamper with the evidence of the prosecution, in any manner.

4 He shall not indulge in any criminal activity.

5 If he commits any breach of above terms of bail, the prosecution is at liberty to move the Trial Court under Section 439(2) of the Code of Criminal Procedure for cancellation of bail.

6 The applicant shall not enter the jurisdiction of entire Bhokar taluka till the conclusion of trial. Before submission of bail papers, the applicant should give his complete address with mobile number. So also he should comply with the requirements under paragraph Nos.12 (1) to (6) of Chapter I of Criminal Manual, (whichever are applicable).

7 Bail before Trial Court.

(Smt. Vibha Kankanwadi, J.)