

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 347 OF 2021

Mahesh Mohan Shinde

Applicant

Versus

The State of Maharashtra

Respondent

Mr. N.V. Gaware, Advocate for the applicant.

Mr. S.P. Deshmukh, APP for respondent/State.

WITH
BAIL APPLICATION NO. 388 OF 2021

Rohit @ Dadya Shahaji Bansode

Applicant

Versus

The State of Maharashtra

Respondent

Mr. N.V. Gaware, Advocate for the applicant.

Mr. S.P. Deshmukh, APP for respondent/State.

CORAM : M.G. SEWLIKAR, J.

DATE : 29th June, 2021.

PER COURT :

1. Both these applications under Section 439 of the Code of Criminal Procedure are disposed of by common order as they arise out of the same offence i.e. Crime No. 713/2019 registered with MIDC Police Station, Dist. Ahmednagar, for the offences punishable under

Sections 302, 396, 120(B), 341, 412, 201 of the Indian Penal Code. Applicants are alleged to have committed murder of deceased Navnath Valve.

2. The father of the deceased Navnath has filed First Information Report against unknown persons alleging therein that deceased Navnath was the owner cum driver of the truck. He had taken the contract of transporting milk powder from Sonai Milk Dairy, Indapur, Dist. Solapur and he was supposed to deliver the same at Assam. After the dead body of deceased Navnath was found and after commencing investigation, it was revealed that accused No. 1 Deelip and co-accused had chased the truck of the deceased on 29th December, 2019. They had done recce about the road on which the deceased was to go. It was revealed that the deceased was murdered near a petrol pump on bypass near Ahmednagar road and thereafter the applicants and the other accused had taken away the loaded truck. The truck loaded with milk powder was recovered at the instance of accused Deelip. Prosecution had collected CCTV footage of various places to nab the assailants. During investigation, a spanner was recovered from applicant Rohit (Bail Application No. 388/2021) and a knife was recovered from applicant Mahesh (Bail

Application No. 347/2021). Except this, there is no evidence against the applicants.

3. Shri Gaware, learned counsel for the applicants submitted that there is statement of owner of Priyanka Lodge to the effect that applicant Mahesh and his friends had booked a room and after one and half hour they checked out of the room. Similar is the statement of other employees of the lodge. He submitted that there is evidence in the form of CCTV footage. In the CCTV footage, the applicants are shown together. He submitted that except this, there is nothing on record to show that the applicants are the authors of the crime.

4. Learned APP Shri Deshmukh submitted that the police have seized the mobiles of the applicants and they have transcript of their conversation which indicates that they were in constant touch with each other soon before the murder. He further argued that a knife was recovered from applicant Mahesh and a spanner was recovered from applicant Rohit. The cause of death is shown to be compression of air passage, along with internal damages, mentioned in (c) of column No. 20 caused most probably due to compression of

neck at the level of thyroid cartilage and trachea with hard and heavy object like rod or stick. He submitted that this clearly shows that the applicants are the authors of the crime. He, therefore, prayed for rejection of the applications.

5. Admittedly, the entire evidence is based on circumstantial evidence. After going through charge-sheet, it appears that the only evidence the prosecution could collect against the applicants is the recovery of a knife and spanner and the CCTV footage and statements of witnesses who had allegedly seen the applicants and co-accused. Both learned APP and learned counsel Shri Gaware stated that there is no evidence to indicate that at any time the applicants and the deceased were last seen together. On the contrary, it is the prosecution case that the truck of the deceased was chased by the accused and the truck was recovered at the instance of accused Deelip. Accused Deelip had a more serious role than the present applicants as at his instance the truck loaded with milk powder was recovered. In the absence of any incriminating evidence other than this evidence and more particularly, release of other accused on bail, I am inclined to release the present applicants on bail. Hence the following order :-

ORDER

- i) Both the applications are allowed.
- ii) Applicants Mahesh Mohan Shinde (Bail Application No. 347/2021) and Rohit @ Dadya Shahaji Bansode (Bail Application No. 388/2021) be released on PR Bond of Rs. 50,000/- (Rs. Fifty Thousand only) each with one solvent surety each in the like amount in connection with Crime No. 713/2019 registered with MIDC Police Station, Dist. Ahmednagar, for the offences under Sections 302, 396, 120(B), 341, 412, 201 of the Indian Penal Code.
- iii) Both the applications are disposed of.

(M. G. SEWLIKAR)
Judge