

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 457 OF 2021

Pravin S/o laxmanrao Ambhore

Applicant

Versus

The State of Maharashtra

Respondent

Mr. D.M. Shinde, Advocate for the applicant.

Mr. R.V. Dasalkar, APP for respondent/State.

CORAM : M.G. SEWLIKAR, J.

DATE : 29th June, 2021.

PER COURT :

1. This is an application under Section 439 of the Code of Criminal Procedure.

2. The informant is the brother of deceased Dnyaneshwar. Deceased Dnyaneshwar was in love with one Sujata. Accused Pramod was also in love with Sujata. Sujata had a break up with accused Pramod. Accused Pramod could not withstand the romantic relationship between deceased Dnyaneshwar and Sujata. Accused Pramod had threatened deceased Dnyaneshwar to stay away from Sujata else Dnyaneshwar would be done away with. On the fateful

day, accused Pramod picked up an angle from petrol pump and left for village Hatta on motorcycle. Along with him, applicant and one Vinod also left for Hatta on another motorcycle driven by the applicant. Thereafter deceased Dnyaneshwar was found dead in village Kalamba. It is the prosecution case that since accused Pramod, could not tolerate romantic relationship between the deceased and Sujata, accused Pramod, applicant and Vinod hatched conspiracy to kill the deceased and murdered the deceased.

3. First Information Report came to be lodged by the informant stating therein that the deceased Dnyaneshwar was killed by these three persons. After investigation, the conspiracy of the applicant and Pramod and Vinod came to be unravelled. Therefore, offence punishable under Sections 302, 120(B), 341, 201 read with Section 34 of the Indian Penal Code came to be registered against them.

4. Heard Shri Shinde, learned counsel for the applicant and Shri Dasalkar, learned APP for the State.

5. Learned counsel Shri Shinde submitted that accused

Pramod had a motive to kill the deceased. Applicant had no motive whatsoever. The only evidence collected against the applicant is that he was seen in the company of accused Pramod. The witnesses have stated that Pramod was seen leaving petrol pump on motorcycle with an angle and applicant and one Vinod left the petrol pump on another motorcycle and all the three were proceeding towards Hatta. He submitted that this evidence is too insignificant to connect the applicant with the offence. He submitted that except this the prosecution could not collect any evidence against the applicant. He, therefore, prayed that the applicant be released on bail.

6. Learned APP submitted that there are incriminating and cogent circumstances against the applicant. Deceased Pramod was in love with Sujata. He could not tolerate that Sujata was in love with deceased Dnyaneshwar. There are witnesses who say that applicant and Vinod left on one motorcycle and accused Pramod left on another motorcycle with an angle. He submitted that soon thereafter, the dead body of deceased Dnyaneshwar was found in village Kalamba. He further submitted that Sujata has stated in her statement under Section 161 of the Code of Criminal Procedure that while she was talking on phone with deceased Dnyaneshwar, she

heard his screams. She also heard the sound of iron falling on the ground. Learned APP submits that this evidence is sufficient to connect the applicant with the offence. He, therefore, submitted that the applicant may not be released on bail. It is not disputed that deceased Dnyaneshwar died a homicide death because he sustained 15 injuries.

7. Entire case of the prosecution rests on circumstantial evidence. The only evidence against the applicant is that he was seen at the petrol pump with accused Pramod and Vinod. As per the prosecution case, applicant and Vinod left towards Hatta on one motorcycle and accused Pramod left on another motorcycle. This shows that all the three left on two different motorcycles towards Hatta. On the basis of such scanty evidence, it is difficult to say that the applicant had any role to play in the alleged offence. No recovery is effected from the applicant except his motorcycle. The recovery of chilli powder is from accused Vinod and not from the applicant. Only on the basis of recovery of motorcycle, it is difficult to infer complicity of the applicant in the alleged offence. In this view of the matter, I am inclined to release the applicant on bail. Hence the following order :-

ORDER

- i) Application is allowed.
- ii) Applicant be released on PR Bond of Rs. 75,000/- (Rs. Seventy Five Thousand only) with one solvent surety in the like amount in connection with Crime No. 359/2020 registered with Hatta Police Station, District Hingoli, (Sessions Case No. 17/2021) for the offences punishable under Sections 302, 120(B), 341, 201 read with Section 34 of the Indian Penal Code.
- iii) Application is disposed of.

(M. G. SEWLIKAR)
Judge