

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 502 OF 2021

Bhim @ Chota Bhim s/o Bhaguram Kotwal

Applicant

Versus

The State of Maharashtra

Respondent

Mr. G.G. kadam, Advocate for the applicant.

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

CORAM : M.G. SEWLIKAR, J.

DATE : 22nd September, 2021.

PER COURT :

1. Prosecution story in nutshell is that the deceased Ravindra Chakkarwar owned a shop named and styled as Gurukrupa Jewellers. Applicant is the son of the sister of the informant. Shrinivas Chitmalwar and the deceased used to run this Gurukrupa Jewellers together. Informant has alleged in the First Information Report that her husband had transactions with many people such as Dilip Kandkurte, Sanjay Jawlekar and Shrinivas Chitmalwar. Dilip Kandkurte, Sanjay Jawlekar and others including husband of the informant had sold a plot and each of them had

received Rs.15,00,000/-. The share of the informant was retained by Dilip Kandkurte. Despite making several demands, said Dilip Kandkurte did not return the amount. In the month of August 2019, the deceased had demanded the said amount of Rs.15,00,000/- from said Dilip Kandkurte. On 25th October, 2019, a message texted to Dilip Kandkurte about demand of money had gone viral, on account of which, the deceased was in stress. He had gone to the shop on 25th October, 2019, and for the whole day, he was in the shop. Since he did not return till 10.00 pm, the informant asked her younger son Jayesh to go to the shop. Said Jayesh called up the informant and told her that the deceased was lying in the pool of blood as somebody had assaulted him on head. She lodged First Information Report mentioning all these details alleging therein that some unknown person had killed the deceased. On the basis of these allegations in the First Information Report for the offence punishable under Sections 302, 397 of the Indian Penal Code came to be registered.

2. The applicant was arrested. The evidence against the applicant is recovery of cash of Rs. 15,00,000/- and the clothes of the applicant allegedly having blood stains.

3. Heard Shri Kadam, learned counsel for the applicant and Shri Sonpawale, learned APP for the State.

4. From the evidence collected by the prosecution, it is apparent that the only evidence against the applicant is that Rs. 15,00,000/- were found with the applicant and the same was recovered. Another piece of evidence is the clothes of applicant having blood stains. These clothes have been referred to Chemical Analyser for analysis. Report is still awaited.

5. Learned APP submitted that there was a conversation between the applicant and his wife in which the applicant is alleged to have told his wife to wash the clothes properly so that the blood stains would be completely disappeared.

6. This conversation is placed on record. It appears that this conversation took place on 31st October, 2019 and the applicant was arrested on 29th October, 2019. During custody, the applicant is alleged to have had conversation with his wife. Be that as it may, this type of evidence cannot be accepted at this stage as the voice of

the applicant has been referred to the Chemical Analyser. Report is still awaited. Therefore, the only evidence against the applicant is recovery of Rs.15,00,000/-. Applicant has alleged that he had received the said amount out of the transaction of sale of immovable property. Even otherwise, simply finding cash of Rs. 15,00,000/- cannot be such an incriminating circumstance as to deny bail. Having regard to all this, more particularly the fact that applicant is behind the bars since approximate two years, a case of bail is made out. Hence the following order :-

ORDER

- i) Application is allowed.
- ii) Applicant be released on PR Bond of Rs. 50,000/- (Rs. Fifty Thousand only) with one solvent surety in the like amount in connection with Crime No. 249/2019 registered with Itwara Police Station, Nanded for the offence punishable under Sections 302, 397 of the Indian Penal Code on condition that the applicant shall not leave the jurisdiction of the concerned Court without its permission till conclusion of the trial.
- iii) Application stands disposed of.
- iv) It is clarified that the observations made in

the above order are restricted to the decision of this application only and the trial Court shall not get influenced by the same and can come to its independent conclusion during trial.

(M. G. SEWLIKAR)
Judge

dyb