

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

28 BAIL APPLICATION NO.572 OF 2021

ABHAY ASHOKRAO MAHAJAN
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Bhosle Abhaysinh K.
APP for Respondents/State: Mr. S.D. Ghayal
...

CORAM : M.G. SEWLIKAR, J.
DATE : 6th September, 2021

ORDER:-

Heard.

2. Allegations against the applicant are that on 03.10.2019 offence came to be registered under Section 304-A, 279 of the I.P.C. against unknown person in Parbhani Rural Police Station vide crime no.236 of 2019. As per the allegations in the report the deceased Prakash Gaikwad was the brother of the informant Gajanan Gaikwad. The deceased-Prakash was a freelance driver. It was further alleged that on 01.10.2019 at about 11.00 am the deceased Prakash went to Parbhani and since then did not return home. On 03.10.2019, one Nagorao Chavan informed him about the accidental death of Prakash. After identification of body in Government Hospital, Parbhani he lodged the aforesaid report.

3. During the investigation of the said crime, informant-Gajanan came to the police station on 10.12.2020 and informed the police that deceased had a keep by the name of Meera. He further informed that officer of insurance company had approached him and informed him that said Meera was claiming to be the wife of deceased-Prakash and she had approached the insurance company for encashing the amount of insurance policy. Accordingly, supplementary statement of Gajanan came to be recorded. In the supplementary statement the informant had expressed apprehension that the deceased was killed by Meera and two of her associates by the name of Karan Bobde and Pundlik Bobde all residents of Sambar, District Parbhani. Accordingly, offence under Section 302 read with Section 34 of the I.P.C. came to be added.

4. During the investigation it was revealed that at the instance of said Meera, Prakash was killed by Karan Bobde and Pundlik Bobde and dead body was carried in the car of the applicant. Investigation further revealed that one Santosh Jadhav had killed Prakash and dead body was carried in the vehicle of the applicant. Therefore, memorandum of accused Santosh Jadhav was recorded and Karan Bobde and Pundlik Bobde were discharged under Section 169 of the Cr.P.C. Accordingly, the applicant came to be arrested. Applicant has filed this application for releasing him on bail.

5. Heard Shri Bhosle learned counsel for the applicant and Shri Ghayal learned APP for the State.

6. Shri Bhosle submitted that nothing has been brought on record to show that the applicant had any connection with the alleged offence. He submitted that there is nothing on record to show that the applicant had any role to play in the alleged offence. Police did not find any evidence against accused Karan Bobde and Pundlik Bobde and therefore they were released under Section 169 of the Cr.PC.

7. Learned APP Shri Ghayal submitted that the applicant is the owner of the car. His car was used for transporting the dead body from the spot of the incident to the spot where the dead body was found and this shows that the applicant was involved in the commission of the alleged crime.

8. On perusal of the charge-sheet, it is seen that the entire evidence is against Santosh Jadhav. He had taken out a policy in the name of the deceased-Prakash. He had conspired with accused Meera. Memorandum statement of the accused Santosh Jadhav shows that the dead body was wrapped in bed-sheet and it was transported in the car of the informant. However, there is no evidence to show that the car was owned by the

applicant. Original owner of the car is one Balasaheb Dnaynoba Pol whose statement is recorded which shows that the applicant had purchased this car for Rs.2,50,000/-. But since the papers were in his name he had applied for getting the custody of the vehicle. Therefore, custody was given to him. Thus, from the charge-sheet what transpires is that there is no documentary evidence to show that the applicant was the owner of the car. There is no evidence to show that the applicant was involved in the commission of the murder of the deceased. At the most he can be charged under Section 201 of the I.P.C. for destruction of evidence. Having regard to all this, I am inclined to release the applicant on bail. Applicant has no criminal antecedents. There is nothing on record to indicate that applicant will not be available for trial. Since the charge-sheet is filed the question of tampering of evidence also does not arise. Because of the pandemic crisis, trial is not likely to commence in the near future. In view of this, applicant is entitled to be released on bail. Hence the following order is passed:

ORDER

- I) Application is allowed.
- II) Applicant be released on PR bond of Rs.15,000/- with one solvent surety in the like amount, in connection with Crime No.236 of 2019 under Section 302, 304-A, 279 of the I.P.C. registered with Parbhani Rural Police Station, District Parbhani.

- III) These observations are made only for the disposal of this application and the learned trial Court shall not get influenced by these observations and can come to its independent conclusion during trial.

[M.G. SEWLIKAR, J.]