

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1361 OF 2021

AMOL S/O GOVIND KAMBLE
VERSUS
THE STATE OF MAHARASHTRA

.....

Advocate for Applicant : Mr. R. R. Karpe a/w Aniket Bhosale and
Abhishek Toradmal
APP for Respondent-State : Mr. N. T. Bhagat

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**WITH
BAIL APPLICATION NO.1362 of 2021**

TEJAS BALASAHEB BHOSALE
VERSUS
THE STATE OF MAHARASHTRA

.....

Advocate for Applicant : Mr. R. R. Karpe a/w Aniket Bhosale and
Abhishek Toradmal
APP for Respondent-State : Mr. N. T. Bhagat

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CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 07-12-2021

ORDER :

1. Both the applications have been filed under Section 439 of the Code of Criminal Procedure. Both the applicants have been arrested in connection with Crime No.104 of 2021, registered on 09-02-2021, with Shrigonda Police Station, District Ahmednagar, for the offences punishable under Section 302, 201 read with 34 of the Indian Penal

Code.

2. Heard learned Advocate Mr. R. R. Karpe along with Advocate Mr. aniket Bhosale and Advocate Mr. Abhishek Toradmal, and learned APP Mr. N. T. Bhagat for respondent-State.

3. It has been vehemently submitted on behalf of the applicants that the applicants are the accused No.3 and 2 respectively who came to be arrested on 13-02-2021, now the charge-sheet has been filed, under such circumstances, their further physical custody is not required for the purpose of investigation. The contents of the FIR would show that the offence was registered against unknown persons by the Assistant Sub-Inspector of Police who was making inquiry under Section 174 of the Cr.P.C. A headless dead body was found on 08-02-2021 in half buried condition in the agricultural land belonging to one Dinkar Ghodke within the jurisdiction of Takli Kadewali. It is the further prosecution story that after the dead body was taken out, it was sent for the post-mortem after drawing the inquest panchanama as well as spot panchanama. The cause of death has been shown as, "evidence of chop injuries, viscera and articles preserved for analysis." No doubt it appears that the death is homicidal, however, to connect the said offence with the present

applicant, what is the evidence that is required to be considered. Accused No.1 is the sister of accused No.2 and accused No.4 is the husband of accused No.1. It is contended that after it was revealed to the police involvement of the accused, all accused No.1 to 4 came to be arrested on 13-02-2021 and, thereafter, the accused No.4 had given discovery under Section 27 of the Indian Evidence Act. He discovered the spot. Further it is stated that after the arrest of accused No.2, he made disclosure on 16-02-2021 and discovered Maruti Alto vehicle, spade, pickaxe and the dickey was having blood stains. Necessary samples have been taken and sent for chemical analysis. Further discovery is by accused No.1 who discovered scythe. DNA profiling has been done and it appears that it is on the basis of the missing report that was filed by the son of the deceased. The identity revealed that deceased was one Ramesh Sadashiv Jadhav. The prosecution now intends to contend after recording the statements of the witnesses that there were some illicit relations between deceased and accused No.1, and he also sought some illegal advancements to accused No.1 for which accused No.2 got annoyed and it is then stated that they had hatched up conspiracy and with common intention they eliminated Ramesh Jadhav.

4. It has been further submitted on behalf of the applicants that there was absolutely no motive for the applicants to commit any crime. If at all for the sake of arguments it is accepted that there was some motive for accused No.1 and 4, there is no evidence against them and, therefore, they deserve to be released on bail.

5. Per contra, the learned APP strongly opposed the applications and submitted that whatever evidence has been collected, is sufficient to array all the accused persons. There was motive for accused No.1, 2 and 4 in view of the fact that it has come in their discovery statement that deceased was making some illegal advancements towards accused No.1. It is a brutal murder that has been committed. He was beheaded and the head was buried at a different place. It was only with an intention to screen the offenders.

6. At the outset, it can be seen that the case is solely depending on the circumstantial evidence. It appears that the main pieces of evidence appear to be the discovery panchanamas and the statements of witnesses who had seen accused No.1 with the deceased on or around the date of incident. Deceased went missing on 31-01-2021 who had left the house under the pretext that he

would go to see a place at Baramati. He returned and again went to Baramati by informing it to his daughter-in-law. The family members of deceased have stated in their statement that since June 2020 the talks were going on in between accused No.1 and deceased regarding purchase of land situated at Baramati belonging to father of accused No.1. The daughter-in-law of the deceased states that she had seen two boys with accused No.1 when she had gone to their house on 15-06-2020. As regards accused No.2 is concerned, it appears that he was annoyed with the demands put by the accused to accused No.1. Prima facie we are required to consider the evidence that has been collected which states that there was a demand by the deceased to accused No.1 about sexual advancements and, therefore, he was annoyed. He has made the discovery and discovered the car from which spade and pickaxe have been discovered, so also there were blood stains in the dickey of the car. So there appears to be some evidence against accused No.1 which disentitles him from the bail. However, as regards accused No.3 is concerned, he is stated to be merely the friend of accused No.2 and his name has been discovered from accused No.2. Therefore, taking into consideration the evidence against him, accused No.3 deserves to be released on bail. Hence, following

order.

ORDER

- 1) Bail Application No.1361 of 2021 is hereby allowed.
- 2) Bail Application No.1362 of 2021 is hereby rejected.
- 3) Applicant/Accused No.3 Amol Govind Kamble, arrested in connection with Crime No.104 of 2021, registered on 09-02-2021, with Shrigonda Police Station, District Ahmednagar, for the offences punishable under Section 302, 201 read with 34 of the Indian Penal Code, be released on P.R. of Rs.50,000/- (fifty thousand) with two solvent sureties of Rs.25,000/- each (twenty five thousand).
- 4) Applicant Amol Govind Kamble shall not tamper with the evidence of the prosecution in any manner.
- 5) The applicant Amol shall not stay as well as visit Gaothan-Ambegaon Burduk Tq. Haveli Dist. Pune, till the conclusion of the trial.
- 6) He shall not indulge in any criminal activity.
- 7) At the time of tendering the bail papers, the applicant should give complete address of his residence to the concern court as to where he would reside till the end of the trial and he should also share his mobile

number with the concern police station as well as to the Court.

8) Further there shall be compliance with the requirements under paragraphs No.12 (1) to (6) of Chapter I of Criminal Manual, whichever are applicable, before his bail is accepted.

9) If any of the attempts of the bail are violated, the prosecution would be at liberty to file an application for cancellation of bail before Sessions Court.

10) Bail before Trial Court.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-