

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1426 OF 2021

KAMLAKAR HANUMANTA DAGALE
VERSUS
THE STATE OF MAHARASHTRA

...
Mr. V. Y. Bhide, Advocate for the applicant.
Mrs. Vaishali Patil Jadhav, APP for the respondent – State
...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 22.12.2021

ORDER :-

. Present application has been filed under Section 439 of the Code of Criminal Procedure by original accused No.1, who has been arrested in connection with Crime No.209 of 2020 registered with Rajur Police Station, Tq. Akole Dist. Ahmednagar for the offences punishable under Sections 302, 201, 34 of Indian Penal Code and under Section 4/25 of Indian Arms Act.

2. Heard learned Advocate Mr. V. Y. Bhide for the applicant and learned APP Mrs. Vaishali Patil Jadhav for the respondent – State. In order to cut short, it can be seen that both of them have made submissions in support of their respective contentions.

3. It can be seen from the documents on record that the investigation is over and charge-sheet has been filed. It also appears that the case has been committed to the Court of Sessions and it is bearing Sessions Case No.40 of 2020 before learned Additional Sessions Judge, Sangamner. The further physical custody of the applicant is not required for the purpose of investigation.

4. Perusal of the FIR would show that it has been lodged by Police Patil of village Chichondi, Tq. Akole, Dist. Ahmednagar. He could find two gunny bags floating in the water below bridge over Krushnawanti river. Those two gunny bags were having stray smell and, therefore, he informed the said fact to the police. Police came to the spot, the gunny bags were taken out of the river and after opening it, it could be found that it was consisting of pieces of human body. They could find, two hands, middle part of the body and head. Therefore, FIR came to be lodged against unknown person.

5. It is the prosecution story that later on the body has been identified of that Pradeep Suresh Bhangre, who turned out to be the grandson of the present applicant. Though opinion in respect of postmortem appears to have been reserved initially, later on the weapons seized in the matter were sent for inspection of the medical expert.

However, since the body was highly decomposed, it has been stated that the final opinion cannot be given even after the result of the testing of viscera has been done. We cannot dispute that death is homicidal in view of the fact that the body was cut into pieces. Therefore, definitely, the death is homicidal. The question is as to whether there is *prima facie* case made out to connect the present applicant with the crime and whether he can be released on bail.

6. The case of the prosecution is relied on circumstantial evidence, especially the discovery and recovery under Section 27 of the Indian Evidence Act. Only one witness appears to have stated that he had talked with the deceased, who told him that he would go to the place of his grandfather i.e. present applicant. It can also be seen that under the discovery, the first discovery is made on 06.07.2020 which is of the place from which nothing has been seized except the motorcycle which is stated to be used in the commission of the crime i.e. at the time of disposal of gunny bags in order to screen the offender. However, the second discovery is subsequent i.e. on 09.07.2020 and it is stated that at that time, the present applicant discovered axe having wooden handle, one plastic handle scythe, one bamboo stick. Surprisingly, present applicant is aged 70 years old and the deceased was 22 years old person. How and under what circumstance, three weapons could have been

used by an old person is a question. Further, by way of said discovery even the clothes of the deceased are stated to have been discovered. Surprisingly, there is absolutely no mention of blood stains on those clothes, however, the clothes of the accused, which were discovered by the present applicant had blood stains. One Sangita Suresh Bhangre who is the mother of the deceased and daughter of present applicant has only stated that deceased was her son. After he went from home around 6.00 p.m. on 26.06.2020, he did not return. She states that they had searched for the deceased, but they could not find. She is not saying that she had made inquiry about her son with her father i.e. present applicant and what was the reaction of the present applicant. Therefore, with this kind of evidence, the applicant need not be asked to remain in jail. He can be released on bail after imposing stringent conditions. Hence, the following order :-

ORDER

- I) Application stands allowed and disposed of.
- II) Applicant – Kamlakar Hanumanta Dagale, who has been arrested in connection with Crime No.209 of 2020 registered with Rajur Police Station, Tq. Akole, Dist. Ahmednagar for the offences punishable under Sections 302, 201, 34 of Indian Penal Code and under Sections 4/25 of Indian Arms Act, be released on P. R. Bond

of Rs.50,000/- with two sureties of Rs.25,000/- each.

III) He shall not tamper with the evidence of the prosecution in any manner.

IV) He shall not indulge in any criminal activity.

V) Bail before the Trial Court.

[SMT. VIBHA KANKANWADI, J.]

scm