

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 605 OF 2021

Suresh Shankar More ... Applicant
Versus
The State of Maharashtra ... Respondent

WITH

CRIMINAL BAIL APPLICATION NO. 1581 OF 2020

Rahul Pandurang Shinde ... Applicant
Versus
The State of Maharashtra ... Respondent

Mr. Shailesh Chavan a/w Shrikant Panhale, for the Applicant in BA No. 605 of 2021.

Mr. Rahul Dhaigule, for the Applicant in BA No. 1581 of 2020.

Smt. PP. Shinde, APP, for the State-Respondent in the both the Bail Applications.

Mr. S. B. Kharat, PC 2488, attached to Wathar, Dist-Satara Police Station present.

CORAM : V. G. BISHT, J.

**RESERVED ON : 25th October, 2021.
PRONOUNCED ON : 15th November, 2021.**

PC:-

. The present applications have been moved by the applicants under Section 439 of the Code of Criminal Procedure in C.R.No. 10 of 2020 registered with Wathar Police Station, District-Satara for the offences punishable under Sections 302, 435, 201, 109, 120B r/w 34 of the Indian Penal Code.

2 It is the case of prosecution that on 21/01/2020 the informant had gone to Dahiwadi for some work. At about 11-30 a.m., he got a phone call from Pusegaon Police Station informing that a Maruti Celero Car is spotted in a burnt condition along with a half burnt dead body of a male. The informant immediately rushed to the spot. The said car was belonging to the sister of informant and the dead body was of his nephew, namely, Sumit Suresh More. The FIR was accordingly registered alleging therein that some unknown person killed Sumit Suresh More (deceased) for unknown reasons by assaulting on his head by means of a weapon, set ablaze his body in the car by pouring inflammable material. Thus FIR came to be registered on 21/01/2020.

3 It is further seen from the record, however, that on 27/01/2020 his further statement came to be recorded. In that statement he stated

that on 24/01/2020 i.e. after three days of lodging of the FIR he was again summoned by police in police station Pusegaon. When he visited the said police station he saw deceased i.e. Sumit More was alive. When he made enquiry with his nephew as to his burnt car of a dead body, his nephew replied the dead body was of Tanaji Baba Awale, a neighbour and in order to claim his ICICI insurance policy, he killed said Tanaji Baba Awale and in order to make the evidence disappear put his dead body in the car and set the car on fire.

4 Mr.Chavan, learned Counsel for the applicant in Bail Application No. 605 of 2021, submits that initially FIR was lodged against the unknown person and it is only on 27/01/2020 the statement of informant came to be recorded wherein the main accused i.e. Suresh Shankar More allegedly made a statement before the informant in order to claim his insurance, he killed the neighbour of informant, namely, Tanaji Baba Awale, put his dead body in his car and set the car on flames. According to learned Counsel, the role of applicant only came in picture after the funeral of Tanaji Baba Awale. The reason for the same is that and it is alleged by the prosecution that the applicant despite knowing that it was not the dead body of his son, namely, Sumit Suresh More but that of Tanaji Baba Awale, still he invited the father of Tanaji

Baba Awale for funeral pretending that it was the funeral of Sumit More. According to learned Counsel, it is not a case of prosecution that he was present on the spot when the incident in question took place or for that matter the applicant was lastly seen in the accompany of the deceased. There being no overwhelming evidence and the fact that the charge-sheet has already been filed, no useful purpose will be served by keeping him behind the bar. The applicant, therefore, be released on bail, urged learned Counsel.

5 Mr.Dahigude, learned Counsel for the applicant in Bail Application No. 1581 of 2020, submits that the investigation papers would show that the applicant was only accompanying with main accused Sumit More. There is no evidence on record to show that the applicant was also lastly seen in the accompany of the deceased. The whole case is based on circumstantial evidence and therefore, the applicant also deserves to be released on bail, urged learned Counsel.

6 Smt. Shinde, learned APP, on the other hand, opposed the submissions of the learned Counsel for the applicants and would point out the disclosure statement made by the applicant under Section 27 of the Evidence Act in order to prove his complicity in the offence. Learned

APP also invited my attention to the statement of prosecution witnesses, namely, Nizamuddin Hasan Shaikh, Rohidas Ankush Chavan and Nanaso Shivaji Katte to show that the applicant in BA No. 1581 of 2020 was very much actively involved in the commission of the offence. Similarly applicant in BA No. 605 of 2021 was very much aware of the fact that the dead body was that of Tanaji Baba Awale and despite that he suppressed the material fact in order to shield his nephew, namely, Sumit More. Both the applications are devoid of merits and therefore, need to be rejected, argued learned APP.

7 Perused the investigation papers. Prima-facie, there may be substance in the submission of the learned APP that the applicant in BA No.605 of 2021 might be knowing on the date of funeral that it was the dead body of Tanaji Baba Awale and not his son. But that circumstance in itself would not be sufficient to prove that the informant in any manner was responsible for the death of Tanaji Baba Awale. On the contrary, if the statement of informant dated 27/01/2020 is read carefully then it would be seen that in the police station the main accused, namely, Sumit More made an extra-judicial confession that it was he, who in order to claim his insurance policy, committed murder of Tanaji Baba Awale and then put his body in the car and set it on fire.

This so called extra judicial confession prima-facie is not reliable for the reason that it was made in the police station. It is also interesting to note here that if we rely this extra-judicial confession for the sake of argument then the main accused Sumit More nowhere disclosed that he committed murder of Tanaji Baba Awale with the help of applicant, namely, Rahul Pandurang Shinde (BA No. 1581 of 2020).

8 Admittedly, there is disclosure statement of applicant Rahul Pandurang Shinde (BA No. 1581 of 2020) and pursuant to that statement he showed the place from where lighter, plastic can and petrol were procured by him. But this circumstance alone will not fasten any criminal liability and enable this Court to form a prima-facie opinion that he was involved in committing the murder of Tanaji Baba Awale.

9 Similarly, I have also gone through the statements of prosecution witnesses as pointed out by the learned APP. The statement of Nizamuddin Shaikh shows that on 19/01/2020 Rahul had been to his shop and had purchased two lighters. The statement of Rohidas Ankush Chavan shows that on 21/01/2020 Rahul Shinde had visited his house along with his friend. Lastly, the statement of Nanaso Shivaji Katte shows that on 23/01/2020 that a person visited his shop in order to get

the amount Rs.6000/- transferred to a particular account number.

10 All these statements prima-facie do not in manner connect the applicant Rahul Shinde to the alleged offence.

11 Thus, having regard to the facts and circumstances of the prosecution case, in my considered opinion, the applicants have made out a case for bail. Hence, the following order.

ORDER

(i) Applicant-Suresh Shankar More in BA No.605 of 2021 and applicant-Rahul Pandurang Shinde in BA No. 1581 of 2020 shall be released on bail in C.R.No. 10 of 2020 registered with Wathar Police Station, District-Satara, on their executing P .R. bond in the sum of Rs.25,000/-each, with one or more sureties in like amount.

(ii) The applicants shall not tamper with the prosecution evidence and shall attend the trial regularly.

(iii) The observations made herein-above are prima-facie in its nature for the purpose of deciding the bail application only. The trial Court shall not be influenced by the observations while deciding the case on merits.

(iv) Parties to act on copy of this order duly authenticated by the Sheristedar of this Court.

(v) The application is allowed in the aforesaid terms.

(V. G. BISHT, J.)