

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2443 OF 2021

RUPESH NARAYAN SHIGVAN)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Gaurav Parkar, Advocate for the Applicant.

Mr.H.J.Dedhia, APP for the Respondent – State.

CORAM : V. G. BISHT, J.

**RESERVED ON : 22nd NOVEMBER 2021
PRONOUNCED ON : 29th NOVEMBER 2021**

P.C. :

1 The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in Crime No.148 of 2020 registered with Police Station Khed, for offences punishable under Section 302 and 201 of the Indian Penal Code (IPC).

2 On 26th August 2020 informant lodged a report stating therein that on 25th August 2020 in between 6.30 p.m. to 11.45 p.m., some unknown person for unknown reason assaulted his cousin, namely, Narayan Shigvan (deceased for short) by means of some unknown weapon on head, face and on private part and after killing him, in order to cause evidence disappear, threw the dead body in the forest.

3 It appears that during the course of investigation it revealed that the deceased had taken some amount from the applicant towards issuance of death certificate. However, the said work was not done and the deceased was demanding more moneys. For this reason, the applicant assaulted the deceased by means of stick on his head, face and private part and thus killed him and in order to cause evidence disappear, threw the dead body in the forest.

4 Mr.Gaurav Parkar, learned counsel for the applicant, submits that the name of the applicant is nowhere revealed in the

First Information Report (FIR). The whole case of prosecution is based on circumstantial evidence. The only incriminating evidence against the applicant is the recovery of the mobile phone of the deceased at the instance of applicant. The investigation is completed and charge-sheet has been filed. Having regard to the material on record, the custody of the applicant is not necessary and therefore, he is liable to be released on bail.

5 Mr.Dedhia, learned APP, on the other hand, opposed the submissions by contending that the mobile handset belonging to the deceased was recovered from the applicant. Moreover, there is record of CDR which would show that the applicant and the deceased had conversation with each other on the day of the incident. In such circumstances, the application is liable to be rejected, argued learned APP.

6 Perused the investigation papers. The FIR shows that it was lodged against an unknown person. Even the

statements of prosecution witnesses which I have gone through do not, in any manner, reveal that the applicant was seen in the company of the deceased immediately before the incident.

7 Admittedly, the mobile phone belonging to the deceased has been recovered pursuant to the discovery statement given by the applicant, but that circumstance in itself is not sufficient to connect the applicant with the death of the deceased. CDR record is yet to be proved and that can be looked into at the time of trial. Except that aspect, there is nothing on record to even establish the chain of circumstances.

8 The applicant has made out a case for bail. Hence, I pass the following order :

ORDER

- (i) Applicant – Rupesh Narayan Shigvan shall be released on bail in Crime No.148 of 2020 registered with Police Station Khed, on his executing P.R.Bond in the sum of Rs.20,000/- with one or two sureties in like amount.

- (ii) The applicant shall not tamper with prosecution evidence.
- (iii) The applicant shall attend the Court proceedings regularly.
- (iv) Bail before the trial Court.
- (v) Parties to act on copy of this order duly authenticated by the Sheristedar of this Court.
- (vi) It is made clear that the observations made herein are prima facie and the trial Court shall decide the case on its own merit, in accordance with law, uninfluenced by the observations made in this order.
- (vii) The application is allowed in the aforesaid terms and stands disposed off accordingly.

(V. G. BISHT, J.)