

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1405 OF 2020

Shankar Narayan Vadaje

.... Applicant

Versus

The State of Maharashtra

.... Respondent

Mr. Jaydeep D. Mane, for the applicant.

Smt. Veera Shinde, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 9th June, 2021
(Through Video Conferencing)

P.C. :

1. The applicant is seeking his release on bail in connection with C.R.No. 39 of 2020 registered at Valsang Police Station, Solapur, on 30/01/2020 under sections 302, 201, 120-B of the Indian Penal Code. The applicant was arrested on 14/02/2020 and since then he is in custody. The investigation is over and the charge-sheet is filed.

2. Heard Mr. Jaydeep Mane, learned counsel for the applicant and Smt. Veera Shinde, learned APP for the State.

3. The prosecution case is that one Shailesh Ghongade was murdered at the instance of his own father Suresh. According to the prosecution case, the applicant was hired to commit murder. Suresh had paid him money for that purpose. The FIR was lodged by PSI Swamirao Patil. He has stated in his FIR that on 29/01/2020, the injured was seen lying on side of the road from Solapur to Akkalkot near Jamdar Vasti. He was taken to Civil Hospital but he was declared dead. There were injuries seen on his body. He was identified by his father Suresh Ghongade and cousin Ganesh Ghongade who had come to the hospital in search of him. The FIR mentions that the deceased was murdered between the night of 28 to 29th January 2020.

4. Learned Counsel for the applicant submitted

that there is absolutely no material against the present applicant in the entire charge-sheet. The main accused i.e. Suresh Ghongade at whose instance the murder was committed is released on bail. There is no connecting piece of evidence between the applicant and the main accused Suresh.

5. Learned APP submitted that there was CDR showing conversation between Suresh i.e. the main accused and the present applicant who is supposed to be the assailant. She submitted that, this showed applicant's complicity in the offence.

6. I have considered these submissions. With the assistance of both learned Counsel, I have perused the charge-sheet. The prosecution case appears to be that father of the deceased had got fed up with his own son i.e. deceased Shailesh as he was constantly harassing his family and had fallen for vices. He was harassing Suresh for transferring piece of land in his name. Therefore the

father hired the present applicant and one Sanjay. The applicant and Sanjay together committed his murder by assaulting Shailesh with knife on his head. At the same time he was strangled with the help of rope.

7. However the charge-sheet does not reflect any material pertaining to the allegations of the prosecution case. There is one memorandum panchnama wherein the applicant has shown his willingness to show a place where he had burnt the mobile phone of the deceased. However, nothing is found at that place. Therefore this is not incriminating circumstance. The post mortem notes show that the deceased had suffered 8 injuries in the form of incised wounds and abrasion. But the cause of death was strangulation. Even for that, there is no connecting piece of evidence showing complicity of the present applicant. CDR between the applicant and father of the deceased at the most shows that they had conversation but that will not indicate that the applicant had committed murder of the deceased. Thus evidence

against the present applicant is very weak. In this view of the matter he cannot be detained during entire course of the trial.

8. Hence the following order.

ORDER

- (i) In connection with C.R. No. 39 of 2020 registered with Valsang Police Station, Solapur, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) The application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)