

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

CRIMINAL BAIL APPLICATION NO. 522 OF 2021

Lahanya Gonu Jadhav Applicant

Versus

The State of Maharashtra Respondent

Smt. Shubhangi Parulekar a/w Pranit Namde, for the applicant.

Smt. A.A. Takalkar, APP for the State/Respondent.

**CORAM: SARANG V. KOTWAL, J.
DATE : 5th APRIL, 2021**

P.C. :

1. The applicant is seeking his release on bail in connection with C.R.No. 330 OF 2019 registered at Paud Police Station, Pune, on 09/07/2019 under sections 302, 201 read with Section 34 of the Indian Penal Code. The applicant was arrested on 17/09/2019 and since then he is in custody. The investigation is over and the charge-sheet is filed.

2. Heard Smt. Shubhangi Parulekar, learned counsel for the applicant and Smt. A.A. Takalkar, learned APP for the State.

3. The prosecution case is that two persons Vijay Salunkhe and Vikas Gosavi were strangled in a WagonR Car. Their dead bodies were left in the car and then the car was set on fire. It was pushed in a valley. Charred bodies were found. According to the prosecution case, there was some money dispute between some of the accused and the deceased. There were in all five accused.

4. Learned Counsel for the applicant submitted that there are no eye witnesses to the incident. There is no incriminating circumstance against the accused. Therefore, the applicant deserves to be released on bail.

5. Learned APP relied on the recovery of motor

cycle at the instance of the present applicant and on statements of witnesses who had seen the applicant travelling in the vicinity on that motor cycle. He was trying to get petrol. Prosecution case is, that petrol was used to burn the car.

6. I have considered these submissions and with the assistance of both learned Counsel, I have perused the entire charge-sheet. As rightly submitted by learned Counsel for the applicant, it is the case of circumstantial evidence. The dead bodies were completely charred. The cause of death could not be given as the bodies were completely charred and decomposed.

7. The FIR was lodged by brother of one Vijay Salunkhe. One of the dead bodies was supposed to be that of Vijay Salunkhe. Till today, there is no positive identification of the dead body and DNA report is still awaited. Vijay Salunkhe was missing from 27/6/2019. He was accompanied by one Vikas Gosavi who was his

brother- in- law. According to the prosecution case, other dead body was that of Vikas Gosavi. They had gone together in a WagonR car.

8. As far as incriminating material against the present applicant is concerned, there are statements of witnesses namely Gangaram Margale and Savita Margale. They have stated that, on 30/6/2019, at about 6.30 p.m., they had seen two persons from Katkari community coming to their hotel and they were asking for petrol. Gangaram had put two liters of petrol in their two wheeler. He was paid for that. Savita's statement is similar. Both these witnesses had not given names or description of the offenders. Identification parade was not held to enable them to identify those two persons.

8. Learned APP However pointed out that the motor cycle was recovered at the instance of the present applicant. It was identified by Gangaram. Even then this circumstance does not connect the present applicant with

the present crime of commission of murder by setting WagonR car on fire.

9. Apart from these two witnesses there is another witness Rohidas Jadhav. He has named the present applicant and others. He had seen the applicant at around 6.00 p.m. He has mentioned that the applicant and Shankar Hiram were travelling on their motor cycle. They had told this witness that they did not have enough fuel and they wanted to buy it. This witness was going towards Pimpri Kundalika valley. At about 6.00 p.m. he saw a car engulfed in flames. This witness tried to go near that car. At that time the present applicant and other accused stopped him from going there. This witness had stated that he was also threatened.

10. This witness thus makes some reference to the present crime. However, his statement was recorded on 23/09/2019 after the applicant's arrest. This witness had not explained why he had not told this story to any Police

Officer, prior to recording of his statement. Because of this delay, his statement becomes doubtful to some extent.

11. There is recovery of motor cycle at the instance of the present applicant. However, that by itself does not connect the applicant with the present crime. In this view of the matter, there is no reliable incriminating material against the present applicant to connect him to the present crime. Therefore the applicant can be granted bail.

12. Hence the following order.

ORDER

- (i) In connection with C.R. No.330 of 2019 registered with Paud Police Station, Pune, 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.)