

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

CRIMINAL BAIL APPLICATION NO.668 OF 2021

Mistri Jafar Pawar Applicant
Versus
The State of Maharashtra Respondent

Mr. Vikrant V. Phatate, Advocate for the Applicant.
Ms. Pallavi N. Dabholkar, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 10th MARCH, 2021

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.144/2020 dated 27.7.2020 registered at Umadi police Station, District-Sangli, under Sections 302, 120-B read with 34 of the Indian Penal Code. The Applicant was arrested on 29.7.2020 and since then he is in custody. The investigation is over and the charge-sheet is filed.

2. Heard Shri Vikrant Phatate, learned Counsel for the Applicant and Ms. Pallavi Dabholkar, learned APP for the State.

3. The prosecution case is in respect of commission of murder of one Revansiddha Hugar. The prosecution case is that the main accused was Ganpati Hugar. He was the real brother of the deceased. There used to be frequent quarrels between them. Revansiddha was addicted to liquor and he used to threaten that he would commit murder of Ganpati. Therefore, Ganpati paid money to the Applicant's brother Umesh and all of them hatched a conspiracy to commit murder of Revansiddha. On 25.7.2020, the deceased was found injured in front of his house. He had suffered injuries and he had already died.

4. Learned Counsel for the Applicant submitted that there is absolutely no evidence against the present Applicant. There is one entry of 2.7.2020 in the Applicant's bank account showing cash deposit of Rs.1,60,000/- and only based on that the Applicant is arrested in this offence on the assumption that he was part of the conspiracy.

5. Learned A.P.P. opposed this application. She submitted that the Applicant's brother Umesh, who is the

main accused who has accepted money from the brother of the deceased, is still absconding. The other accused Ganpati had shown the house where the conspiracy was hatched and according to him the Applicant was present in that house when the conspiracy was hatched. She also relied upon the bank entry, showing Rs.1,60,000/- deposit of cash in his account, to contend that he was part of the conspiracy.

6. I have considered all these submissions. With their assistance, I have perused the charge-sheet. The FIR is lodged by the widow of the deceased. She has stated that on 24.7.2020, the deceased was found in front of his house in injured condition. The accused No.1 Ganpati, who was the main accused, was brother of the deceased, had given the complaint on 25.7.2020 that the deceased was found in injured condition. But subsequently Ganpati was shown as the main accused, who had hatched the conspiracy to eliminate his own brother Revansiddha.

7. The postmortem notes show that the deceased had suffered as many as six injuries and the cause of death was

mentioned as “head injury with neck compression.”

8. The question about the Applicant’s involvement in the offence has remained unanswered in the entire charge-sheet.

9. As pointed out by both learned Counsel, the only circumstance which the prosecution is relying upon is an entry of deposit of cash of Rs.1,60,000/- in the bank account of the present Applicant on 2.7.2020. The prosecution wants to connect this entry as the money received for commission of murder. This solitary piece of evidence will not unerringly point out towards the Applicant’s involvement in actual commission of murder or hatching of conspiracy to commit murder. The investigation has not progressed further to show as to who had actually deposited this amount. Learned A.P.P. pointed out that this amount could be the amount which was taken by him from accused Umesh, who is absconding, for executing murder. However, this only gives rise to some suspicion. This is not even a strong enough circumstance against the present Applicant.

10. The other circumstance of co-accused showing the house where the conspiracy was hatched, hardly carries any weight because nothing was discovered pursuant to such statement given before the police under Section 27 of the Evidence Act.

11. In this view of the matter, in the entire charge-sheet there does not appear to be sufficient material against the present Applicant warranting his further custody during the entire period of trial. Therefore, I am inclined to grant bail to the present Applicant. Hence, the following order :

ORDER

- (i) In connection with C.R.No.144/2020 dated 27.7.2020 registered with Umadi police Station, District-Sangli, 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 Applicant shall attend the concerned police station once in a fortnight for a period of one year from today.
- (iii) The Application stands disposed of accordingly.

Pradeepkumar
P. Deshmane

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Pradeepkumar P.
Deshmane
Date: 2021.03.12
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Deshmane (PS)

(SARANG V. KOTWAL, J.)