

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

BAIL APPLICATION NO.658 OF 2019

MEGHA
S
PARAB

Digitally signed
by MEGHA S
PARAB
Date:
2021.09.23
16:24:27
+0530

Nirankar Bharat Singh

...Applicant

Versus

The State of Maharashtra

...Respondent

....

Ms Sushma Mishra for the Applicant.

Ms P.N. Dabholkar, APP for the Respondent-State.

Mr. V.S. Shirsat, API, Karpali Police Station, Bhiwandi.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 13th SEPTEMBER, 2021.

P.C.:-

This is an application under Section 439 of the Code of Criminal Procedure, 1973 filed by the Applicant, who is facing trial in Sessions Case No.322 of 2018 on the file of Additional Sessions Judge, Thane for offences under sections 201 and 302 of the IPC.

2. Ms Sushma Mishra, learned counsel for the Applicant states that there is no prima facie material either direct or circumstantial to show the involvement of the Applicant in commission of the said crime. It is further stated that none of the witnesses had seen the Applicant either entering or exiting scene of the incident i.e. the room wherein the body of the deceased was found. She further states that there is no

material on record to indicate that the Applicant had made call to Indrajit Paswan.

3. She submits that the entire case of the prosecution is based on CDR. She states that the mobile phone relating to the said CDR was recovered about a year later from possession of one Indrajit Paswan. It is therefore submitted that there is no prima facie material on record to show that the Applicant was in possession of the said phone or that he had made calls from the said mobile. Learned counsel for the Applicant further submits that the Applicant has been residing in Uttar Pradesh alongwith two minor children since about one month prior to the incident. The Applicant has also relied upon the discharge card of Government Hospital, Uttar Pradesh to contend that he was admitted in the said hospital from 07/10/2008 to 13/10/2008.

4. Per contra Ms P.N. Dabholkar, learned APP states that statements of the witnesses prima facie indicate that the Applicant was residing with the deceased in one of the rooms at Pandu Sheth Chawl, Rajiv Gandhi Nagar. The witnesses have stated that there used to be frequent quarrels between the Applicant and his wife and that he used to assault his wife. She further states that the statement of the witness

-Indrajit prima faice indicates that on the date of the incident the Applicant had told him that he was proceeding to Uttar Pradesh and had told him that the door of his room was latched from outside and to open the latch. Learned App states that the material on record including the CDR records prima facie show the involvement of the Applicant in commission of the said crime. She has placed on record report received from Mahatma Jyotiba Phule, Sanyukta Zila Chikitsalay, Ambedkar Nagar, Uttar Pradesh, stating that no patient by name Nirankar Sinha @ Bharat Sinha was admitted in the said hospital between 07/10/2008 till 13/10/2008.

5. I have perused the records and considered the submissions advanced by learned counsel for the respective parties.

6. The statement of Indrajit Paswan prima facie reveals that the Applicant was known to him. He used to meet the Applicant at the tea stall of Pappu Soni. This witness has stated that during the intervening night of 10th and 11th October, 2008 at about 12. a.m he received a phone call from the Applicant asking him to go to his room . In the morning the Applicant once again called him at 6.00 a.m. and told

him that the door of his room was latched from outside and to open the latch. This witness has stated that he went to the room of the Applicant and opened the door which was latched from outside. He saw the wife of the Applicant lying motionless. He called out to the Applicant, but did not get any response. He then returned to the tea stall of Pappu Soni and once again went to the room of the Applicant with Pappu Soni. He saw that the wife of the Applicant was still lying motionless. There were some injury marks on her body. Pappu Soni confirms this statement.

7. Indrajeet claims that he had called the Applicant but his mobile was switched off. Later in the afternoon the Applicant called him and told that he was proceeding to Uttar Pradesh. He had also stated that he had strangled his wife as he was fed up of her. This witness has stated that subsequently the phone of the Applicant was switched off.

8. The statements of Indrajeet, Pappu and some of the neighbours prima facie reveal that till the date of the incident the Applicant and his wife were residing in one of the rooms of Pandu Sheth Chawl. The Applicant was aware that the door of the room was latched from outside. He had requested Indrajeet to open the door. Indrajeet

and Pappu Soni had seen the wife of the Applicant lying motionless in the room with injuries on her body. The post mortem report also reveals that death of the wife of the Applicant was due to asphexia.

9. The statement of Indrajit Paswan reveals that on the previous occasions he had intervened when the Applicant was assaulting his wife. He has stated that the Applicant had told him that his wife has been harassing him and it is necessary to get rid of her. The statements of the neighbours also indicate that the Applicant used to assault his wife. The deceased had told one of the neighbours that the Applicant was insisting that she should leave him since his family did not approve her because of the cast difference.

10. The material on record prima facie proves the involvement of the Applicant in the crime. The contention of the Applicant that he was at Uttar Pradesh and that he was admitted in Government hospital from 07/10/2008 to 13/10/2008 is prima facie falsified by the statement of Indrajeet as well as the report sent by Chief Medical Officer, Mahatma Jyotiba Phule Hospital, Ambedkar Nagar, Uttar Pradesh. The material on record prima facie indicates that the Applicant had gone to Uttar Pradesh after committing the crime. He was absconding from 2008 and was arrested in the month of March-2018. In view of such

conduct, the possibility of the Applicant absconding and thwarting the course of justice cannot be ruled out.

11. Considering the gravity of the offence, the material in support thereof, the severity of punishment and the conduct, the Applicant is not entitled for bail. Hence, the application is dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)