

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

BHALCHANDRA
GOPAL
DUSANE

BAIL APPLICATION NO.1090 OF 2021

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Date: 2021.10.08
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Anand Brijlal Raidas Applicant

Vs.

The State of Maharashtra Respondent

Mr. Sudeep Pasbola i/by Karl P. Rustomkhan for Applicant.
Mrs. Rutuja Ambekar, APP for State.

**Coram : NITIN W. SAMBRE, J.
Date : 7th OCTOBER, 2021**

P.C.:

1. Heard Mr. Pasbola, learned counsel appearing for the applicant and Mrs. Ambekar, learned APP for the State.

2. The applicant came to be arrested on 29th December, 2019 in Crime No. 528 of 2019, registered with Mulund Police Station, for the offence punishable under Sections 364, 302, 201 read with 34 of the Indian Penal Code.

2. The prosecution case against the present applicant is, deceased-Babu was maternal brother of Mamta, who were in love and absconded. Accused No. 1- Geeta Chettiyar, mother of Mamta decided to teach a lesson to deceased-Babu and as such abducted him and murdered, resulting into registration of offence.

3. The prosecution case against the applicant is the vehicle, which is used for abducting deceased-Babu is owned and driven by the applicant and as such the applicant is equally involved in commission of crime.

4. Mr. Pasbola, learned counsel appearing for the applicant would urge that even if what has been stated in the charge-sheet is taken to be true, it cannot be inferred that the applicant at the relevant time was driving or riding rickshaw, which came to be seized in commission of crime. So as to substantiate his contention, he has relied on statement of Chinna Tangraj Shetty, the complainant and also other relevant material available on record.

5. Learned APP submits that apart from the aforesaid statement, fact remains that the vehicle in question, which is owned by the applicant since was found to be prima facie involved in the crime was seized. She would further claim that the applicant being the owner of vehicle, in an explanation as to relevant time, who was using the offending vehicle.

6. Considered submissions.

7. The only piece of evidence to which my attention is invited can be considered against the applicant is statement of Chinna Shetty. Chinna Shetty in his statement has stated that while abducting Babu before his death, rickshaw driver was riding said rickshaw. The applicant has not specifically named to be driver or rider of rickshaw. What is claimed is the said vehicle is owned by the applicant. So as to identify the rickshaw driver of the offending vehicle, which is used in the aforesaid serious crime, no further investigation appears to have been carried out, so as to infer that the applicant at the relevant time was riding the rickshaw.

8. In that view of the matter, even if the offence is serious one punishable with life imprisonment or death, the complicity as referred to above does not reflect availability of strong piece of evidence against the applicant, which may result conviction to the applicant. As such a case for grant of bail is made out. Hence, the application is allowed on following conditions.

ORDER

(i) The applicant be released on bail in Crime No. 528 of 2019, registered with Mulund Police Station, for the offence punishable under Sections 364, 302, 201 read with 34 of the Indian Penal Code, on furnishing P.R. bond in the sum of Rs.25,000/- with one or more sureties in the like amount.

(ii) Two consecutive absence on the part of the applicant in attending the trial will entail the Sessions Court to proceed with cancellation of the bail.

(iii) The applicant undertakes to furnish his latest place of residence and mobile contact number to the Sessions Court as well as to the Investigating Officer of the concerned Police Station, within two weeks.

(NITIN W. SAMBRE, J.)