

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.1347 OF 2021

Sunil Raya Shirke .. Applicant
Versus
State of Maharashtra .. Respondent

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Mr.Aabad Ponda, Senior Advocate i/b Ms.Vrushali L. Maindad
for the Applicant.

Mrs.M.H.Mhatre, APP for the State.

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CORAM: BHARATI DANGRE, J.
DATED : 14th SEPTEMBER, 2021

P.C:-

1. The Applicant came to be arrested in connection with C.R.No.38 of 2019 registered with Mankhurd Police Station for the offences punishable under Sections 302, 364, 365, 201, 34, 120-B of the Indian Penal Code read with Section 66(c) of the Information Technology Act, in the month of February, 2020. The bail applications being rejected, he has approached this Court.

2. The case of the prosecution is to the effect that one Rajendra Mohite lodged a complaint about his sister, who is residing with him and working as Sweeper with Navi Mumbai Municipal Corporation Hospital, going missing. On 13/11/2018, Rohini informed her mother that she is going to

attend a wedding and will return on 15/11/2018. When she did not return on 16/11/2018 and her mobile was found to be switched off, the complainant made inquiries about her at her work place and on not finding her, lodged the complaint. He also gathered information that the reason of marriage of her friend was not correct as there was no marriage scheduled.

3. On 25/06/2018, when the informant approached the SBI bank with his missing sister's passbook, it was revealed to him that an amount of Rs.68,000/- was withdrawn from different ATMs between 15/11/2018 and 16/11/2018 from her account. Therefore, the CCTV footage of the concerned ATMs was obtained and co-accused Ram Jadhav came to be arrested. The investigation further led to the Applicant also being part of the conspiracy as the location of the mobile phone of the two accused persons and the deceased was same. Suspecting that the accused persons had kidnapped his sister and the money was withdrawn from her bank account, without her consent, FIR No.38 of 2019 came to be registered on 06/02/2019 with Mankhurd Police Station, invoking Section 365 read with Section 34 of the Indian Penal Code.

4. On 08/02/2019, a body of a lady was traced, which was identified by the complainant to be of his sister from her apparel. The investigation led to involvement of three persons, Ram Jadhav, Vijaysingh Bhaskar and the Applicant, who had eliminated the deceased. The relevant provisions of the Penal Code were added to the FIR and the Applicant was arrested in February, 2019.

5. Heard learned senior counsel Mr.Ponda for the Applicant and learned APP Mrs.Mhatre for the State.

6. Learned APP has invited my attention to the material compiled in the charge-sheet, which include the statement of one Rekha Kamble, a co-worker, working alongwith the deceased. She is also acquainted with the present Applicant, who provided ambulance to the hospital in which, she was working alongwith the deceased. Ram Jadhav has been described by her to be a person, who is in the job providing cable connection. The witness has stated that when the deceased did not report for duty, her brother had visited the hospital and made inquiries, since she was not found at home. Ram Jadhav told her that probably the deceased had solmnized marriage and she would return after some days. However, as per the said witness, the deceased did not return even at the end of the month of December.

As far as the present Applicant is concerend, the witness has stated that he assigned her a task of opening the locker of the deceased at her work place and taking out a diary from it. She states that he arranged for the opening of the locker of the deceased and a person was sent to break open the lock. She also speak of a diary being retrieved from the said locker and the Applicant asked her to scribe some note in the diary and upon his instructions, she asked her daughter to scribe the said note and this diary, at the instructions of the Applicant, was again placed in the locker of the deceased.

The statement of Pallavi Kamble, daughter of Rekha, is also compiled in the charge-sheet, who has stated that she has scribed the note in the diary as per the directions of her mother. The extract of the diary is compiled in the charge-sheet, which gives an impression that the deceased was committing suicide.

7. Another incriminating circumstance is the discovery of the body of the deceased at the instance of the present Applicant. Though it is attempted to be argued that the Applicant is not the person, who is seen in the CCTV footage from the ATMs where two other accused are spotted withdrawing the amount, the Applicant is roped in the said crime with the aid of Section 120-B read with Section 34 of IPC. The case is based on the circumstantial evidence, and the prosecution has compiled all the incriminating circumstances in the charge-sheet and by completing the chain of circumstances, prima facie, establish the charge against the Applicant. The prosecution rely on several circumstances, including the ornaments of the deceased being recovered from the co-accused Ram Jadhav. The statement of Rekha Kamble and her daughter would clearly implicate the present Applicant and it lead to the conspiracy, which is hatched to eliminate the deceased. The aforesaid circumstances, do not permit release of the Applicant on bail, since he is involved in a serious offence and his indictment is clearly established through the circumstances compiled in the charge-sheet.

The application is rejected.

8. It is made clear that the observations made hereinabove are, *prima facie*, and limited to the extent of adjudication of the present bail application.

(SMT. BHARATI DANGRE, J.)