

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.1074 OF 2020

Ramesh Mote	.. Applicant
Versus	
The State of Maharashtra	.. Respondents

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Mr.Jaydeep Mane for the applicant.
Smt.A.A. Takalkar, APP for the State.

CORAM: BHARATI DANGRE, J.
DATED : 17th JULY, 2021

P.C:-

1 The applicant is charged with murder of one Laxmi, aged 30 years, who was reported to be missing by a complaint filed in Mohol police station on 10th May 2020 by her brother.

2 It is the case of prosecution that deceased was married to one Bapu Dhotre, but on account of the matrimonial discord, she had lodged a complaint against him in the year 2016 and from that time, she was not residing with him, but continued to reside in a Gaothan in village Narkhed. The husband allege that his wife was carrying illicit affair with the present applicant since last one year and he used to frequent her house and she was also

spotted in the village on his motor-cycle.

Since Laxmi was missing from 5th April 2020, her brother lodged a missing report in Mohol police station and the investigating machinery was set into motion. The body of the deceased was found in an pit dug in the hallow land of one Shashikant Dalvi within limits of village Bhoyare. The body was completely decomposed and it was identified to be of Laxmi from the clothes on the body and the mobile phone with her.

3 This being disclosed to the husband of the applicant, he identified the dead body to be of his wife Laxmi. His statement was recorded on 10th May 2020. During investigation, the panchnama was conducted on a spot where body of deceased was found. The post mortem report record that the body was decomposed and liquified and the cause of death could not be ascertained. However, the possibility of throttling cannot be denied.

4 The evidence collected against the applicant in the charge-sheet is in the form of circumstantial evidence. The material in the charge-sheet include statement of witnesses to the fact that the deceased was maintaining close proximity with the applicant but since January 2020, there were differences between them on account of money. From January 2020, it is alleged that the applicant stopped visiting Laxmi's house though Laxmi was

attempting to establish contact with the applicant on his mobile. He was not answering the phone. This was disclosed by Laxmi to one witness who has given a statement on 10th May 2020 and it is compiled in the charge-sheet. The witness state that on the first Sunday of April, when he was sitting outside his house, he saw Laxmi leaving her house while talking on phone and thereafter, she was not seen in the village. Statement of one Leelavati Dhotre and Sangita Raut, Nasreen Abdul Attar is on similar lines.

5 Another circumstance which incriminate the applicant in the said C.R is the statement of one Nana @ Gajanan Pawar who owns a JCB. On 5th April 2020, the applicant is alleged to have contacted the said person and inform him and sought his JCB by informing him that since his Ox has died, he went to bury him and Nana was asked to come in the field of Shashikant Dalvi located on Bhoysare to Narkhed Road next to the field of one Tambole. At 7.00 p.m,when he proceeded on the said road, the applicant was standing there. The JCB was taken in the field of Shashikant Dalvi and a pit was dug near the Babul tree. While digging the pit, one pipe line accidentally broke. At that time, the applicant asked him to dig a pit in an open place. Nana state that no Ox was present on the spot and when he inquired where the Ox was, the applicant informed him that the Ox was in the habitat and likely to be brought by a carriage. He was paid Rs.1,000/- for his work and asked to leave. On 9th May

2020, he was called by Narkhed police station with his JCB in the field of Shashikant Dalvi and he dig a pit. At that time, the witness disclose that one month back, he had dig a pit at the same spot on the say of the applicant for burying an Ox. On digging the pit, the dead body of a woman was found and she was identified to be Laxmi Dhotre – deceased. Another statement of one Madhukar Mote is also compiled in the charge-sheet, who state that he runs a shop which store hardware, agricultural equipments and pipe lines. On 6th April 2020, the applicant came to his shop and informed that while digging a pit by JCB, to bury an Ox, a pipe line in the field of Shashikant Dalvi had burst and he made a demand of some material to fix that leakage and told the applicant to pay Rs.325/- which he promised to pay later on. Therefore, he lodged a receipt vide no.921 on the Advance Register on page no.16 and produced the xerox copy of the said register, which bear the date as 6th April 2020.

6 The circumstances compiled in the charge-sheet implicate the applicant and connect him to the deceased Laxmi whose body was found in a pit and who had gone missing from 1st week of April 2020. Since the deceased was staying alone and nobody noticed that she went missing, the complaint came to be filed only on 25th April 2020 and the body was recovered on 9th May 2020. The circumstances narrated by the witnesses about the pit being dug for burying an Ox from where the body of the

deceased was recovered, complete the chain. The discord between the deceased and the applicant is also brought on record by the prosecution by placing on record the statement recorded on 29th December 2018 where, in the police station she had stated that she had advanced an amount of Rs.25,000/- to the applicant and though she was repeatedly demanding it, he was not repaying the same amount and when she went to his house for getting her money back, a quarrel had ensued between him and his wife and his wife had lodged a complaint in Mohol police station against Laxmi. However, since the applicant had returned the amount, she withdrew her complaint. This is an additional circumstance which pinpoint that the relationship between the applicant and the deceased was strained. This nature of circumstantial evidence compiled in the charge-sheet, do not permit the release of the applicant on bail taking into account his nature of accusation and gravity of the offence.

7 Application is rejected.

8 Needless to state that the observations herein are *prima facie* in nature and restricted to the decision of the Bail Application.

SMT. BHARATI DANGRE, J