

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

CRIMINAL BAIL APPLICATION NO.2462 OF 2021

Riyan (Rehan) Ahmad Nihal Ahmad ...Applicant

Versus

The State of Maharashtra ...Respondent

Mr. Dinesh Kadam a/w Mr. Siddhant Dhavale, for the Applicant.

Ms. Anamika Malhotra, A.P.P for the Respondent – State.

API – Jagdish Borse, Killa Police Station, Malegaon, District – Nashik (Rural), is present.

CORAM : REVATI MOHITE DERE, J.

DATE : 8th OCTOBER 2021

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 447 of 2020 registered with the Killa Police Station, Nashik (Rural), for the alleged offences punishable under Sections 302, 397 r/w 34 of the Indian Penal Code.
3. Perused the papers. According to the complainant – Radhabai Krishna Sonavane, wife of the deceased – Krishna Sonavane, the incident

took place in the intervening night of 6th and 7th December 2020. She has stated that on 6th December 2020 at about 9:00 a.m. she went to her husband's shop i.e. deceased – Krishna's shop and stayed there till 4:00 p.m. and thereafter went to her house. She has stated that on 7th December 2020 at about 7:00 a.m. when she visited her husband's shop, she saw that her husband had sustained several injuries on his body, pursuant to which, she informed her son and accordingly, police were also informed. It appears that during the course of investigation it transpired that one truck was parked near Baliram Amluk's Hotel that night and when the driver and cleaner of the said truck were sleeping, 4 unknown persons had come near the truck at about 1:30 a.m. to 2:00 a.m., to steal the articles from the truck. It transpired that one of the said unknown person assaulted one cleaner Nanak Kumar on his left shoulder and neck and thereafter fled from the spot. The driver of the truck took Nanak Kumar to the hospital, where Nanak Kumar received 12 stitches. On their return, the driver and the cleaner learnt that somebody had been murdered.

4. *Prima facie*, it appears that 2 separate incidents had taken place; one which had taken place at about 1:30 a.m. to 2:00 a.m. on 7th December 2020 i.e. assault on the truck driver and cleaner and second, the murder of deceased - Krishna, which time is not known. Admittedly, the 4

unknown persons including the applicant who allegedly assaulted the truck driver and cleaner, were not known to each other.

5. Learned Counsel for the applicant submits that Nanak Kumar has identified the said 4 unknown persons who assaulted him and in the supplementary statement dated 16th December 2020 has stated that he learnt that the very same persons had also murdered deceased - Krishna. As far as murder of deceased - Krishna is concerned, *prima facie*, there is nothing on record to show that the applicant was involved in the same. *Prima facie*, it appears that the applicant was one of the persons who committed an offence under Section 397 of the Indian Penal Code i.e. assault of the driver and cleaner of the truck and Nanak Kumar has identified the said applicant in the Test Identification Parade, as being one of the persons who had attacked him when he was sleeping in the truck. The applicant has no antecedents. Investigation is complete and charge-sheet is filed and as such further detention of the applicant is not warranted.

6. Considering the aforesaid, the application is allowed and the applicant is enlarged on bail on the following terms and conditions:-

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 20,000/- with one or two sureties in the like amount;
- (ii) The applicant shall attend the concerned Police Station on the first Saturday of every month from 10:00 a.m. to 11:00 a.m. until further orders;
- (iii) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;
- (iv) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (v) The applicant to cooperate with the conduct of the trial and attend the trial Court on all dates, unless exempted;

(vi) The applicant shall file an undertaking with regard to clauses (ii) to (v) in the trial Court, within two weeks of his release;

(vii) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

7. The application is allowed in the aforesaid terms and is accordingly disposed of.

8. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

9. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.