

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.1183 OF 2020**

Narayan Shamrao Chitte .. Applicant
Versus
The State of Maharashtra .. Respondent

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Mr.Rajiv Patil, Senior Advocate with Mr.Prasad Panchal,
Ms.Neha Rane and Ms.Tanvi Patil for the Applicant.

Mr.A.R.Kapadnis, APP for the State.

PSI P.S.Karwal attached to Chandwad Police Station, Nashik
present.

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**CORAM: BHARATI DANGRE, J.
DATED : 01st SEPTEMBER, 2021**

P.C:-

1. The Applicant seeks his release on bail, being charge-sheeted in C.R.No.I-106 of 2020 registered with Chandwad Police Station, Nashik, which invoke Sections 302, 201, 120-B read with Section 34 of the Indian Penal Code (fort short, “IPC”). The Applicant is arrested in the said C.R. on 19/06/2020 and since then continue to languish in prison.

2. Heard learned senior counsel Mr.Rajiv Patil for the Applicant, who submit that the material compiled in the charge-sheet is not sufficient to establish the charge and surely do not warrant his further incarceration. In absence of any

cogent and reliable material in the charge-sheet either in form of direct or circumstantial evidence to establish that the Applicant was part of any conspiracy to eliminate the deceased or for destruction of evidence, he cannot be kept behind bars, awaiting the outcome of his trial. From perusal of the charge-sheet, according to the learned senior counsel, there are no reasonable grounds to believe that the Applicant is guilty of the offence of murder.

3. Learned APP Mr.Kapadnis has opposed the application vehemently and relied upon the material in the charge-sheet and by pointing that the Applicant possessed a strong motive as the deceased was his wife and on account of strained relationship between the duo, she was eliminated. He prays for rejection of the application.

4. I have perused the charge-sheet and the material compiled therein. The charge-sheet allege that the Applicant is the husband of the deceased and he used to suspect the character of his wife Nita and, therefore, he hatched the conspiracy with the help of his friend i.e. Accused No.2 by giving a contract of Rs.10,00,000/- for eliminating her. It is alleged that the phone number of the deceased was provided to Accused No.3, who made a phone call to her and established intimate relationship with her. By roping Accused No.4 in the whole conspiracy, Accused Nos.3 and 4, on 14/06/2020 at about 19.30 hrs, called the deceased at Adgaon Naka, where they were present in Maruti Suzuki red coloured Swift Car

bearing No.MH01-PA-5632. Accused Nos.3 and 4 are charged of strangulating her in the car and then disposing her body in a deep drainage near Farshi bridge. Her mobile phone was also destroyed at some distance from Highway. All the four accused are thus charged for being involved in conspiracy for eliminating deceased Nita.

5. The body of the deceased was found by one police personnel, who lodged the report and the offence was registered against unknown persons and it was mentioned that she had sustained injury on the back side of her head and was hit by some pointed weapon. The postmortem report, when perused, reserved the opinion and it merely mentions that death has occurred around 2 to 3 days before. The postmortem was conducted on 16/06/2020. The Forensic Medicine Expert has given the final opinion on 01/09/2020 to the following effect :-

“Cause of death cannot be determined due to gross decomposition.”

6. In order to connect the present Applicant to the crime, the prosecution has relied upon the CDRs. The charge-sheet includes the details of the CDRs, which establish the telephonic contact between Accused No.3 and deceased Nita, but it does not necessarily lead to an inference that there was an affair between the two. The telephonic contact of the Applicant with Accused No.2 is brought on record, but the argument of the learned counsel for the Applicant is that this is not an

incriminating factor since the case of the prosecution itself is that Accused Nos.1 and 2 are known to each other and shared a business relationship. Merely because of this telephonic contact, it cannot be conclusively established that there is a conspiracy between the two for hiring Accused No.3 to eliminate the deceased.

The charge-sheet allege that an amount of Rs.10,00,000/- was promised for committing murder of Nita, out of which Rs.5 Lakhs were paid in advance and remaining amount was to be paid after the murder. However, there is no recovery of amount from any of the Accused till date nor any withdrawal of the amount is reflected in the bank statement of the Applicant. In absence of any contact established between the present Applicant and Accused Nos.3 and 4 or vice versa, mere contact being established between the Applicant and Accused No.2, who admittedly is his friend, the chain of circumstances *prima facie* is not completed. When a case is to be established on the basis of circumstantial evidence, it is imperative for the prosecution to establish a complete chain of circumstances, with every circumstance being linked to the other, leading to a conclusion that it is only the particular Accused, who has committed the offence and no one else can be attributed of the same. The chain of circumstances must clinchingly pinpoint the Accused.

7. The said parameters of circumstantial evidence, being not conclusively brought on record through the charge-sheet, though at the time of trial, prosecution may lay its case by emphasizing on the final points and complete the chain

of circumstances, in the wake of the material contained in the charge-sheet, the Applicant need not remain incarcerated, since the investigation is complete. The Applicant is, therefore, entitled to be released on bail, subject to the following conditions.

: ORDER :

- (a) The application is allowed.
- (b) Applicant – Narayan Shamrao Chitte shall be released on bail in C.R.No.I 106 of 2020 registered with Chandwad Police Station, Nashik on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.
- (c) The Applicant shall report to the concerned police station on first Monday of every month between 10.00 a.m. and 1.00 p.m. till framing of the charge.
- (d) The Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and shall not tamper with the prosecution evidence.

(SMT. BHARATI DANGRE, J.)