

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 2889 OF 2021

Shivanand Bhimappa Jadhav & Another ...Applicants

Versus

The State of Maharashtra ...Respondent

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Mr.Viresh V. Purwant a/w. Mr.Rushikesh Kale for the
Applicants.

Mr. Ameet A. Palkar, APP for the Respondent-State.

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CORAM : V.G.BISHT, J.

RESERVED ON : 8TH DECEMBER, 2021

PRONOUNCED ON : 20TH DECEMBER, 2021

PC:-

1. The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in Crime No. 1030 of 2020 registered with Vijapur Naka Police Station, Solapur City for offence punishable under Section 302 read with 34 of the Indian Penal Code (the IPC).

2. Informant's sister-in-law Laxmibai Shivaji Mane (since deceased) was her neighbour. Vijay Parshuram Bhoje used to reside with the deceased. On 8th November, 2020 at about

5.30 am, the said Vijay Bhoje came and informed about the death of deceased. Informant accordingly lodged the First Information Report (FIR) against unknown person.

3. Mr.Purwant, learned Counsel for the applicants, submits that there is absolutely no evidence against the applicants except the statement of one Munna Parshuram Bhoje. Investigation is completed and the charge-sheet has been filed. In such circumstances, the applicants deserve to be released on bail.

4. Mr. Palkar, learned APP, on the other hand, fairly submits that there is only statement of Munna Parshuram Bhoje and except that there is no material on record to connect the applicant with the alleged offence.

5. Perused investigation papers including the statements of prosecution witnesses. I would like to refer the statement of said Munna Parshuram Bhoje. It appears that this witness is brother of Vijay Parshuram Bhoje, who at the relevant time was residing with the deceased.

6. It is seen from his statement that on 7th November, 2020 at about 8.00 pm, his brother Vijay Bhoje visited him and this witness enquired as to how he had come. Vijay Bhoje then replied that the daughter of deceased, namely, Anita and her brother-in-law, namely, Shiva (applicants) have come. He further told that Anita was telling to deceased that she knows about visit of deceased along with her husband to various lodges and that police from Karnataka is coming to arrest her and therefore, asked her to accompany them. Vijay Bhoje further told that Shiva had given him Rs. 500/- to bring Chinese food but he handed over said Rs. 500/- to the wife of said witness. When this witness asked Vijay as to why he is not taking Chinese food, Vijay replied that he apprehends that some harm may be caused to him also and therefore, he slept there.

7. It is further seen from his statement that on the next morning, Vijay got up, took Rs. 500/- from his wife and went away, only to return at about 6.15 am. Vijay then informed that the deceased was killed by Anita and her brother-in-law.

8. From the above statement, it is more than clear that this witness is not having personal knowledge and he was told all about the incident by his brother Vijay Bhoje.

9. I have also gone through the statement of Vijay Bhoje, which is available on record.

10. It is seen from his statement that on the next day when he visited the house of deceased, he found deceased lying dead. This witness also did not see as to under what circumstances deceased died. He had only seen deceased in the previous evening in the company of applicants. Case appears to be based on circumstantial evidence. There is nothing on record to connect the applicants *prima facie* with the alleged offence. In such circumstances, the applicants have made out a case for bail. Hence, the following order :

ORDER

(i) Applicant- Shivanand Bhimappa Jadhav and Applicant –Anita Mahadev Jadhav shall be released on bail in C.R. No. 1030 of 2020 registered with

Vijapur Naka Police Station, Solapur City on their executing P.R. Bond in the sum of Rs. 20,000/- each with one or two surety/ sureties in like amount.

(ii) The applicants shall attend the trial Court proceedings regularly.

(iii) Bail before the trial Court.

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

(v) The application is allowed in the aforesaid terms and stands disposed of accordingly.

(V.G.BISHT, J.)