

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3020 OF 2021

SOURABH ASHOK KADAM

)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA

)...RESPONDENT

Mr.Dhananjayrao D. Rananaware, Advocate for the Applicant.

Smt.Anamika Malhotra, APP for the Respondent – State.

CORAM : V. G. BISHT, J.

**RESERVED ON : 7th DECEMBER 2021
PRONOUNCED ON : 17th DECEMBER 2021**

P.C. :

1 The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in Crime No.42 of 2021 registered with Police Station Pusegaon, Taluka Khatav, District Satara, for offences punishable under Section 302 read with 34 of the Indian Penal Code (IPC).

AVK

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2 It is the case of prosecution that informant is the wife of deceased, namely, Sampat Satre. On 16th February 2021 when the deceased did not return home, the informant enquired with one Shri. Bote from whom the deceased used to collect milk daily. She had also requested one Patole to take a search of the deceased. According to prosecution, said Patole came back and informed that the deceased was lying in an injured condition on road. The informant rushed and found bleeding injuries on the head of the deceased. The deceased was rushed to hospital but was declared dead. The informant lodged First Information Report (FIR) against unknown person.

3 It appears that during the course of investigation accused Pawan Satre, who is son of the deceased, was annoyed with deceased as the deceased was resisting the sale of agricultural land which accused Pawan Satre wanted to sell. Therefore, said Pawan Satre, with the help of accused Sourabh Ashok Kadam (applicant), who is a habitual offender, gave

Rs.2,000/- to accused Yuvraj Jadhav in advance out of consideration of Rs.20,000/-, so as to kill the deceased and accordingly said accused committed murder of the deceased.

4 Mr.Dhananjayrao Rananaware, learned counsel for the applicant, submits that the FIR nowhere discloses the name of the applicant. It is only during course of investigation, according to prosecution, it revealed that the present applicant, who is none other than the son of deceased, conspired with accused Sourabh Kadam (applicant) and Pawan Satre and thus killed his own father. Investigation is over and charge-sheet has been filed. In such circumstances, no purpose would be served by keeping the applicant behind the bars.

5 Smt.Anamika Malhotra, learned APP, on the other hand, submits that case is based on circumstantial evidence and then invited my attention to the statement of one Vijaykumar Jaysingh Bote dated 4th March 2021 recorded under Section 164 of the Cr.P.C. by Judicial Magistrate First Class, Vaduj. Having

regard to the nature of offence, the applicant does not deserve to be enlarged on bail.

6 Perused the investigation papers. Admittedly, FIR nowhere alleges or attributes any role on the part of the applicant. There is no direct or indirect evidence coming forth to support the angle of conspiracy at this stage. Even otherwise, the alleged conspiracy will have to be established at the time of trial.

7 The only incriminating evidence collected by prosecution against the applicant is so called discovery statement given under Section 27 of the Indian Evidence Act whereby he had agreed to show the place where he had kept his clothes worn by him during the course of incident. Accordingly, at his instance, those clothes were came to be seized.

8 Smt.Anamika Malhotra, learned APP, during the course of argument, invited my attention to the statement of one of the witnesses, namely, Vijaykumar Jaysingh Bote dated 4th

March 2021 recorded under Section 164 of the Cr.P.C. by Judicial Magistrate First Class, Vaduj. On going through the said statement, it is seen that on 16th February 2021, at about 7.00 p.m., this witness had seen all three accused going towards the direction of Daroor. Except that, there is nothing in his statement. This statement, in my view, does not further the case of prosecution.

9 Having regard to the material on record, in my view, the applicant has made out a case for bail. Hence, I pass the following order :

ORDER

- (i) Applicant – Sourabh Ashok Kadam shall be released on bail in Crime No.42 of 2021 registered with Police Station Pusegaon, Taluka Khatav, District Satara, on his executing P.R.Bond in the sum of Rs.20,000/- with one or two sureties in like amount.
- (ii) The applicant shall not tamper with prosecution evidence.

- (iii) The applicant shall attend the Court proceedings regularly.
- (iv) Bail before the trial Court.
- (v) Parties to act on copy of this order duly authenticated by the Sheristedar of this Court.
- (vi) 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.
- (vii) The application is allowed in the aforesaid terms and stands disposed off accordingly.

(V. G. BISHT, J.)