

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

CRIMINAL BAIL APPLICATION NO.1766 OF 2020

Sutradhar Laxman Shinde Applicant
Versus
The State of Maharashtra Respondent

Mr. Aniket Nikam, Advocate i/b. Vivek N. Arote, for the Applicant.

Ms. Pallavi N. Dabholkar, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 08th MARCH, 2021

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.212/2020 registered at Ranjangaon MIDC police station, Pune on 18.7.2020 under Sections 363, 365, 364, 302, 201, 120-B read with 34 of the Indian Penal Code. The Applicant was arrested on 18.7.2018 and since then he is in custody. The investigation is over and the charge-sheet is already filed.

2. Heard Shri Aniket Nikam, learned Counsel for the Applicant and Ms.Pallavi Dabholkar, learned APP for the State.

3. The prosecution case is that the deceased Ramasare Mishra was a Supervisor. The main accused Nilesh and Kamlesh were working under him. The deceased used to frequently scold them and, therefore, they were angry with him. Between the night of 17th and 18th July, 2020, they committed his murder and took away his ATM card and also withdrew some money. The FIR is lodged by one Khandu Borhade. He was working with Agile Security Force and System Private Ltd. at Wakadewadi, Pune as a Center Head. The deceased was a security guard in the ware-house. He was staying alone in his room. He used to be on night-shift. On 18.7.2020, the informant received a call on his mobile phone made by one Imam Hussain Shaikh. He told that the deceased was not seen on his duty. When Imam Hussain went to his room, he saw some blood stains on his bed. The first informant and other employees as well as the ware-house owner went there. They observed that his articles were lying scattered in the room. His driving license, ATM card and mobile handset were not found in the room. There were

blood stains on his bed. The informant and others were convinced that he was abducted and on this basis, the FIR was lodged.

4. Shri Nikam submitted that the case is based on circumstantial evidence. There are no eye witnesses and in fact there are no circumstances against the present Applicant. There was no motive attributable to the present Applicant. The only piece of circumstance was that the Applicant was seen driving a Honda Civic Car at about 12:30 a.m. in the night between 17th and 18th July, 2020 and subsequently in that car on the back seat blood stains were found. He submitted that this solitary weak piece of evidence will not even remotely indicate that the Applicant was concerned with the commission of murder.

5. Learned A.P.P. opposed this application relying on the circumstance mentioned above. She submitted that it is a strong circumstance and there are witnesses who had seen the Applicant in that car at 12:30 a.m. in the night.

6. I have considered all these submissions. The post-mortem notes show that the body was decomposed and the cause of death was mentioned as “irreversible hemorrhagic shock due to internal bleeding in thorax and abdomen due to blunt trauma to the chest & abdomen”. The dead body was found in the water at the instance of the accused Kamlesh.

7. The witness Rajendra Dolas has stated in his statement dated 20.7.2020 that Kamlesh Pawar had taken that particular car on 16.7.2020 as he was interested in buying it. He wanted to show it to a garage mechanic. Subsequently the car was parked by Kamlesh in front of this witness's house but the witness was not told about it. On 19.7.2020 the police came to his house. They inspected the car and there were blood stains on the back-seat of the car.

8. There are statements of witnesses Santosh Borhade and Pandurang Garud. They have stated that in the night between 17th and 18th July, 2020 at about 12:30 a.m., the Applicant, Rohit Shelar as well as other accused Kamlesh Pawar and Vikas Jagtap had come to his petrol pump for

filling petrol. He had noted the car number. This witness is supported by Pandurang Garud. These statements, at the most, show that the main accused Kamlesh was in the same car at 12:30 a.m. and the Applicant was driving that car. However, the prosecution case is about the commission of murder by Kamlesh. At that point of time the dead body was not in the car. There is no connecting piece of evidence to show that the Applicant had taken part in further commission of murder.

9. There is a statement of one Vaibhav Pawar, who has stated that the Applicant was with other accused Kamlesh and Nilesh on 17.7.2020 and they had gone to a garage to show the car to a mechanic. This statement shows that the accused Kamlesh had really intended to purchase the car and, therefore, it was shown to the garage owner.

10. In any case, the Applicant has no direct connection with this car. The only witnesses Santosh Borhade and Pandurang Garud have spoken about his presence in the car at around 12:30 a.m. on 18.7.2020. This is the solitary

piece of evidence against the present Applicant. Though at that time he was in the company of the main accused Kamlesh, there is nothing to show further that he has shared any common intention or common object . The dead body was recovered at the instance of accused Kamlesh. The motive was attributed to Kamlesh. There is no recovery at the instance of the present Applicant.

11. In this view of the matter, there appears to be a very weak piece of evidence against the present Applicant. All these circumstances against the Applicant do not appear to form a complete chain. Therefore, the Applicant deserves to be released on bail. Hence, the following order :

ORDER

- (i) In connection with C.R.No.212/2020 registered with Ranjangaon MIDC police station, Pune, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) The Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)