

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

CRIMINAL BAIL APPLICATION NO. 3182 OF 2021

Shridhar Madhukar Waghmare	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Satyavrat Joshi i/b Mr. Sunil S. Kamble for the Applicant

Mr. A. A. Palkar, A.P.P for the Respondent–State

CORAM : REVATI MOHITE DERE, J.

WEDNESDAY, 6th 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. 282/2020 registered with the Jath Police Station, Sangli, for the alleged offences punishable under Sections 302 r/w 34 of the Indian Penal Code ('IPC').

3 Perused the papers. According to the prosecution, the daughter of the accused No. 1-Nagesh Landage had a love affair with the deceased-Dhanaji Mote. The first informant-Sandeep Mote, is the the brother of

deceased-Dhanaji Mote. The first informant, in his complaint, has stated that the accused family and his family are residing at Village Kanthi, Taluka Jath and that the deceased-Dhanaji was in love with a girl-Anuradha i.e. the daughter of accused No. 1 and niece of the applicant. He has further stated that after Anuradha (daughter of accused No. 1) broke relations with Dhanaji (deceased), several cases came to be filed as against Dhanaji i.e. accused No. 1 filed 3 NCs as against the deceased-Dhanaji and accused No. 1's wife filed an FIR in 2018 alleging an offence punishable under Section 354 of the IPC and accused No. 1's daughter-Anuradha also filed an FIR in 2019, as against the deceased-Dhanaji alleging an offence punishable under Section 354 of the IPC.

4 According to the complainant, on 6th October 2020, when he had gone to his village, the accused persons had threatened Dhanaji (deceased) that he should leave Anuradha, else, they would not keep him alive. It is alleged that on 8th October 2020 at about 11:30 a.m, the complainant received a phone call from one villager, informing that his brother-Dhanaji was murdered, pursuant to which, the informant went to the village-Kanthi, at about 3:00 a.m, and saw his brother-Dhanaji lying in a pool of blood on the road in front of Samaj Mandir, Ambedkarnagar.

5 Learned counsel for the applicant submits that the witness-Sunil Kharat, in his 161 statement has stated that when he reached the spot, he saw the deceased as well as his motorcycle lying on the road and saw 4 persons running in the dark. He has named the applicant as being one of the persons. Learned counsel for the applicant submits that although in the 161 statement, Sunil Kharat has named the applicant as having seen him running from the spot after the alleged incident, in his 164 statement, he is completely silent with respect to having seen anyone running from the said spot.

6 Learned counsel for the applicant submits that the applicant will stay out of Jath Taluka and will provide the address and telephone number and will also mark his attendance at the Vishrambaug Police Station, at Sangli.

7 Learned A.P.P does not dispute the said contradiction between the 161 and 164 statements of the said witness-Sunil Kharat. The said witness is alleged to have seen the said incident when he was going home in his tractor at about 10:45 p.m. The said witness admittedly has not seen the actual incident of assault as per his 161 statement but appears to have

only seen the accused running from the spot, which statement is contradictory to his 164 statement, wherein he has not disclosed anything about seeing anyone running from the spot. There is no recovery at the instance of the applicant. The stick, revolver and stone were found to be lying on the spot. The revolver is not stated to have been used in the commission of the offence nor does the statement of Sunil Kharat reveal that he had seen the revolver at the spot, when he saw the dead body. Sunil Kharat has stated that he saw a stick and a stone lying on the spot. The applicant has no antecedents.

8 Considering the material on record *qua* the applicant, the applicant has *prima facie* made out a case for grant of bail. Accordingly 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. 25,000/- with one or two local sureties in the like amount;

(ii) The applicant shall not enter the jurisdiction of Jath Police Station, till the conclusion of the trial;

(iii) The applicant shall attend the Vishrambaug Police Station, Sangli, on the first Saturday of every month between 10:00 a.m. to 11:00 a.m, till the conclusion of the trial;

(iv) The applicant shall inform his latest place of residence and mobile contact No. 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;

(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 not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

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

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

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

10 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.

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

REVATI MOHITE DERE, J.