

Neeta S.
Sawant

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Bail Application No. 3028 / 2019

Laxman @ Sonya @ Aditya Tukaram Ghude .. Applicant

Vs.

The State of Maharashtra .. Respondent

Mr. Nitin Sejpai a/w Akshata Desai, Advocate for the Applicant.
Mr. S.R. Agarkar, APP for State/ Respondent.

CORAM : SANDEEP K. SHINDE J.

DATE : 2nd MARCH, 2021.

PER COURT :-

Heard.

1. It is an application under Section 439 in Crime No. I – 138 / 2017 registered with Murbad Police Station for the offences punishable under Sections 302, 396, 120-B and 201 of the Indian Penal Code, 1860.

2. Dead body of the Madhukar was found in partly decomposed state, whereafter Autopsy Surgeon opined he died due to cut throat injury with strangulation. It appears Madhukr was missing since 8th November, 2017 and his body was found on 11th November, 2017, whereafter his brother lodged the F.I.R.

3. Co-accused in the subject crime were arrested on 19th November, 2017 and applicant on 1st December, 2017.

4. Learned Counsel for the applicant submits the investigation is over and the final report has been filed; however, there is no evidence to connect the applicant to the subject crime. Counsel would submit that there are no criminal antecedents, against the applicant and since investigation is over, applicant's presence for the trial can be secured by imposing suitable condition, inasmuch as the trial is not likely to commence within reasonable time.

5. Mr. Agarkar, learned APP for State has relied on a statement of one Niyaz Ali recorded on 13th November, 2017 to contend that on 8th November, 2017, deceased was seen in the company of five

unknown persons. Be that as it may, in absence of Test Identification Parade, the statement of Niyaz Ali, does not further prosecution case. The learned APP has also relied on a disclosure panchanama dated 4th December, 2017. Barring these two circumstance, there is no material brought to my notice to show/ suggest the applicant's complicity in the subject crime. The applicant is in the custody since 1st February, 2017. Prosecution case rests on circumstantial evidence. As stated above, except two circumstances, prosecution could not point out any other circumstance, to connect the applicant to the subject crime.

6. In consideration of the facts of the case and the material on record, a case is made out for releasing the applicant on bail. Hence the following order.

ORDER

(I) The applicant is directed to be released on bail on executing P.R. Bond in the sum of Rs. 30,000/- with one or more local sureties in the like amount;

(ii) The applicant shall report to the Investigating Officer twice a month i.e. Monday of Second and Fourth Week of each month commencing from March, 2021 between 11:00 am. to 04:00 pm. till the charge is framed;

(iii) The applicant shall furnish his residential address as well as permanent address and contact details to the investigating officer within a week;

(iv) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

7. Applications is allowed and disposed of accordingly.

8. It is made clear that observations made hereinabove be construed as expression of opinion only for the purpose of granting bail and the same shall not in any way influence the trial in other proceedings.

(SANDEEP K. SHINDE, J.)