

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.

Criminal Application (BA) No. 1138 of 2021

(Bharat s/o. Pralhad Jaybhaye and anr. ..vs.. State of Maharashtra through its P.S.O. Amdapur P.S.,
District Buldhana)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. Anil Mardikar, Senior Advocate with Mr. Sumit Joshi, Advocate for the
applicants
Mr. M. K. Pathan, APP for the State/non-applicant

CORAM : ROHIT B. DEO, J.

DATED : 30-11-2021

Heard.

2. The applicants are seeking bail in connection with Crime 303/2021 registered with Amdapur Police Station, District Buldhana for offences punishable under Sections 302, 201, 364 and 120B read with Section 34 of the Indian Penal Code and Sections 3/25 and 4/25 of the Arms Act.

3. It is on the basis of report lodged by Smt. Geeta Shejol that a body was found floating in the Painganga River, and after she informed the police telephonically, the body was extracted and found tied with rope and stone, that the crime is registered.

4. The body turned out to be of Mr. Rangnath Khedkar.

5. Concededly, there is no direct evidence on record and the prosecution case is based on circumstantial evidence.

6. The prosecution case is that applicant 1 Bharat Jaybhaye had a strong motive to kill Rangnath. The son of Rangnath allegedly flirted with Kavita, the wife of applicant 1. Applicant 1 advised Rangnath to make his son see reason. Rangnath did not oblige or the applicant so perceived, and Rangnath was done to death. Other than the motive, the incriminating material, according to the prosecution is certain disclosure made under Section 27 of the Indian Evidence Act. The prosecution case is that Rangnath was lured to come at Pangriphata, then forced at knife and gun point to accompany the applicants and the co-accused in Wagon-R vehicle of applicant 1 Jaybhaye, Rangnath was then strangled to death and body dumped in the Painganga river. The first memorandum of the disclosure is as regards the various

spots. Leaving out inculpatory material therein which clearly would be hit by Section 25 of the Indian Evidence Act, *prima facie*, the said memorandum may not be of any significance. The second disclosure has led to recovery of a golden coloured mobile set which applicant 1 allegedly purchased from accused 4 Gajanan Pawar allegedly to be used in the crime. Even, according to the prosecution, the call which was made to the wife of Rangnath, to lure Rangnath to his death was not made from the golden coloured mobile which was recovered pursuant to the disclosure made by applicant 1 Bharat Jaybhaye. The mobile, which was used to allegedly lure Rangnath to come to Pangriphata is recovered at the behest of co-accused Ankush Doifode. The other memorandum has led to recovery of 3 live cartridges, but then, in the absence of any material to show the link between the 3 live cartridges and the crime or for that matter the relevance, the said memorandum is not an incriminating material.

7. The other incriminating material, according to the prosecution, is that Constable Mapari called on the

mobile phone which was stolen from Vitthal Deshmukh on 30-5-2021 and the person who spoke with Constable Mapari is suspected to be applicant 1 Jaybhaye and, therefore, the voice sample is sent for spectography test. The suspicion is presently only in the realm of prosecution theory. It is true that according to the prosecution, the said mobile phone was called to lure Rangnath Khedkar to Pangriphata. The prosecution may be justified in pursuing such a line in the sense that according to the prosecution, said mobile was used to call Rangnath's wife on the fateful day and only few minutes earlier, Mapari called that number and spoke with a person who according to the prosecution is applicant 1 Bharat Jaybhaye. As noted earlier, at this stage and till the spectography report is received, the contention is only in the realm of theory.

8. In so far as applicant 2 is concerned, the only incriminating material is recovery of knife pursuant to the disclosure statement. While the case of the prosecution is that Rangnath was threatened on knife and gun point and made to sit in the vehicle when he

was abducted, there is no material to connect the knife recovered with the crime. This is a *prima faice* observation. In my considered view, the applicants have made out a case for grant of bail.

9. The application is allowed subject to the following conditions.

(i) The applicants be released on bail on executing PR bond of Rs. 16,000/- (Rupees Sixteen Thousand) each with solvent surety of the like amount.

(ii) The applicants shall not, directly or indirectly, make any attempt to influence the witnesses or otherwise tamper with the evidence.

(iii) The applicants shall attend Amdapur Police Station, District Buldhana as and when directed by the Investigating Officer.

(iv) The applicants shall not leave the country without the permission of the trial Court.

(v) The applicants while on bail, shall not indulge in any criminal activity.

(vi) Any breach of these conditions shall *ipso facto* entitled the prosecution to seek cancellation of bail.

JUDGE

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