IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

53 BAIL APPLICATION NO.1570 OF 2022

HITESH GUNWANT MAHALE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Naseem R. Shaikh.
APP for Respondent-State : Mr. S. B. Narwade.
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CORAM : S. G. MEHARE, J.
DATE : 10.10.2022

PER COURT :-

1. Heard the learned counsel for the applicant and the learned APP for the respondent-State at length.

2. It is the case against the son who has killed his mother and grandmother. It has been alleged in the FIR that a son and his family were suspecting deceased mother and wife over her character. Therefore, she came to her parents. She was residing in a small tea stall with her mother at village Tarwade. However, on 23.05.2022, the mother and grandmother found dead in the hotel. A report has been lodged by the maternal uncle of the applicant. He suspected the applicant. Thereafter, the crime was registered and wheel of the investigation was put into the motion.

3. The Investigating Officer has collected the evidence of the presence of the applicant at petrol pump and at tea stall at odd hours. It has been alleged against the applicant that since he was suspecting the character of his mother, he had made his mind to finish his mother and grandmother as she was helping his mother.

4. The case against the applicant is solely rests upon the circumstantial evidence. The prosecution has the evidence of petrol pump servant that on the day of incident, the applicant went to fill the petrol in motorbike and a rod was tide to his motorbike. His route arriving at the spot of the incident match with his C.D.R. location. The weapons used and clothes wore by the applicant at the time of the incident have been recovered at his instance under Section 27 of the Indian Evidence Act. The weapons and clothes seized from the applicant were blood stained. Hence, prosecution arraigned him as an accused.

5. Learned counsel for the applicant has vehemently argued that the applicant is 19 years old having no criminal antecedents. The investigation has been completed. Therefore, nothing is to be recovered from the applicant. There was a

dispute on a property. Therefore, he has been falsely implicated in the crime. A report was lodged on 19.05.2022 against the applicant and others by the deceased-mother, wherein the applicant was shown present in the said meeting. But there are no allegations against him. The spot of the incident was located in a thick locality. There were no eye witnesses to the incident. A circumstantial evidence collected by the Investigating Officer does not complete the chain of circumstances. The applicant has been arrested on suspicion only. The distance between Chalisgaon and Bhadgaon is about 45 k.m.; therefore, it was not possible for him to reach on the spot, commit the murder and again safely reach to his home. The so called weapon has been seized from the open ground, where the public had access. Therefore, that recovery would not help the prosecution to prove the nexus of the applicant with the crime. He also argued that in absence of any concrete evidence and completion of the investigation, it would be not profitable to keep the young boy in jail with harden criminals. He may be released on bail.

6. Learned APP has strongly opposed the application. He would submit that chain of circumstances has been completed. The applicant had a motive to kill his mother as his family was

suspecting her character and grandmother was helping his deceased-mother. There is an evidence of previous dispute. A false defence has been brought by the applicant that his maternal uncle has committed the murder, as there was a dispute over the property. He would refer to the statement of the servant of petrol pump and submit that he is the best witness to suspect the applicant, who was carrying a weapon tied to his vehicle. The blood found on the weapons and clothes recovered at the instance of the applicant is a strong evidence against him. The Post Mortem Report reveals that the mother and grandmother of the applicant were died of head injury. It was a double murder case. Grandmother has unnecessary lost her life. Therefore, the applicant may not be granted bail.

7. Perused the papers. No doubt, the charge sheet has been filed and the investigation is completed. Firstly, while granting bail, the Court has to consider the gravity and seriousness of the offence. Secondly, the possibility of tampering with the prosecution witnesses and abscondance of the accused. The Court has also to consider the *prima facie* material against the person claiming the bail. Herein the case, the daughter and mother have lost the life. There appears substance in the

argument of the learned APP that since the applicant and his family were suspecting the character of the deceased, she went to reside with her mother. Both of them were residing in the small tea stall. The incident is allegedly happened at odd hours in the night. It was a small village. Though the spot of incident was in thick area, considering the life style of small villagers, the presence of the villagers at such odd hours is not possible. Be that as it may, it may be the part of the evidence. The recovery of the weapon and clothes at the instance of the applicant stained with blood is a strong circumstance. His travelling route matching with C.D.R. report also supports the prosecution case. Now-a-days, we have high speed vehicles, so it is quite possible to reach 45 k.m. within a short time. Hence, his defence of impossibility to reach on the spot of the incident and return back may not help him. Considering the evidence collected by the Investigating Officer, at this juncture, it may believed that the chain of circumstances has been completed against the applicant. Besides the above, the offence is serous and grave.

8. Considering the way, in which a boy committed the murder of his mother and grandmother, the possibility of

tampering with the evidence and threats to the witnesses cannot be ruled out.

9. For the reasons stated above, the application stands dismissed.

(S. G. MEHARE, J.)

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