

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

CRIMINAL BAIL APPLICATION NO.296 OF 2022

Pawan Narayan Jadhav ...Applicant

Versus

The State of Maharashtra ...Respondent

....

Mr.Aniket Nikam a/w Mr.Aashish Satpute, Mr.Amit Icham i/by Mr. Vivek Arote, Advocate for the Applicant.

Mr. N. B. Patil, APP for the Respondent – State.

....

CORAM : PRAKASH D. NAIK, J.

ORDER RESERVED ON : 19th OCTOBER, 2022

ORDER PRONOUNCED ON : 19th DECEMBER, 2022

PC :

1. The Applicant is arrested in C.R. No. 288 of 2018, dated 10th June 2018 registered with Hinjewadi Police Station, Pune, for offences punishable under Sections 302, 397 r/w 34 of Indian Penal Code, 1860.

2. Prosecution case is that, the complaint was lodged by Datta Vasant Bhondve, alleging that, on 9th June 2018 at about 8.30 p.m., the complainant, his wife and son were returning home. Since the complainant was suffering from vomiting and loose motion, he stopped his car near Bhoomkar Chowk and purchased medicine from

Digitally signed
by
DNYANESHWAR
ASHOK ETHAPE
Date: 2022.12.19
17:42:48 +0530

the medical store. Thereafter he proceeded towards the residence by highway along with his wife and eight months old son. The complainant felt like vomiting and hence he stopped his car on the side of the road and got down from the vehicle. At that time, two unknown persons sat on the rear seat of his car. One of them pointed out knife on the neck of the complainant. Other person pressed the mouth of his wife with handkerchief. She fell unconscious. The said person also pressed the mouth of complainant with handkerchief. However, he was not unconscious. The complainant was told to proceed further with the car. Thereafter the accused told him to stop the car. One of them had tied neck of his wife. His son started crying. Person sitting on the rear seat closed the mouth of son by handkerchief. The complainant tried to get down from the vehicle. The person sitting on the rear seat assaulted the complainant by blow on his head and back with some weapon. The complainant was tied to the seat of the car. He was unconscious. He regained consciousness at around 11:00 pm. The phone of his wife was ringing. Caller was brother of complainant. The complainant told him about incident. Some people came near the vehicle. They were taken to the hospital. The accused took away mobile phone and cash of Rs.50,000/-, the gold chain from the person of complainant and Mangalsutra of his wife. The wife and

son of complainant were declared dead. The FIR was lodged. During the course of investigation, it was revealed that, the complainant is involved in crime. He was impleaded as accused. Involvement of other accused was also revealed. The Applicant was arrested on 10th June 2018. He was produced before the Court. He was remanded to custody. The prosecution case against the Applicant is that, he was conspirator with accused Datta Bhondve and others in committing murder of victims. Datta Bhondve, who was the original complainant was arrested. On completing investigation charge sheet is filed.

3. The Applicant had preferred an application for bail before the Court of Sessions at Pune. The said application was rejected vide Order dated 18th September, 2019.

4. Learned Advocate for the Applicant submitted that, the Applicant is in custody from 10th June, 2018. He is in jail for about four and half years. There is no progress in the trial. Co-accused Sonali Balasaheb Javale is granted bail by this Court vide Order dated 23rd July, 2021. There is no evidence to show that, the Applicant was involved in the crime. There is no evidence to show that, he was present at the place of incident and participated in assaulting the victims. There is no recovery from the Applicant. The case is based on circumstantial evidence. Applicant is arrested

on suspicion.

5. Learned APP submitted that, the offence is of serious nature. The accused Datta Bhondve and others hatched conspiracy to kill his wife. On the day of incident, the wife of complainant and son were killed. CDR shows that, there were calls between Applicant, Datta Bhondve and Sonali Javale. The statement of Ramjan Bababhai Shaikh referred to the conspiracy hatched by Applicant including Sonali Javale to kill the wife of Datta Bhondve. The cellphone belonging to Datta Bhondve was recovered from the Applicant.

6. There is no eye witness to the incident. The case is based on circumstantial evidence. There is no direct evidence to show that, the Applicant was instrumental in killing victims. There is no evidence to show that, the Applicant was present at the scene of offence. The prosecution is relying upon statement of Ramjan Bababhai Shaikh recorded under Section 161 of Cr.P.C. on 17th June, 2018 and under Section 164 of Cr.P.C. on 11th July, 2018. His statement referred to the facts that, he had accompanied the Applicant and other accused and they had met Sonali Javale. There was discussion about the plan to the kill wife of Datta Bhondve. The said discussion allegedly took place in May 2018. However, he has further stated that, After May 2018, there was no discussion about

the said plan nor he knows anything happened thereafter. There is no material recovered from Applicant to show that, he was involved in assaulting the victims. The Applicant is in custody from 10th June, 2018. The other evidence referred to by learned APP is not strong circumstance to show his presence at the place of incident or participation in the crime. Hence, case for grant of bail is made out.

ORDER

- (i) Criminal Bail Application No.296 of 2022 is allowed;
- (ii) The Applicant is directed to be released on bail in connection with C.R. No.288 of 2018 registered with Hinjewadi Police Station, Pune on executing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The Applicant shall report concerned Police Station once in three months on first Saturday of the month between 11:00 am to 1:00 pm till further order;
- (iv) The Applicant is permitted to furnish cash bail in the sum of Rs.25,000/- for a period of six weeks in lieu of surety;
- (v) Criminal Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)