

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.402 OF 2022

Ravindra Bhagwan Kadam .. Applicant
Versus
The State of Maharashtra .. Respondent

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Mr.Kuldeep Nikam for the Applicant.
Ms.Rutuja Ambekar, A.P.P. for the State/Respondent.

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CORAM: BHARATI DANGRE, J.
DATED : 21st SEPTEMBER, 2022

P.C:-

1. The applicant seeks his release on bail in connection with C.R.No.I-376 of 2021, registered with Shahapur Police Station, which charged him for the offence of murder. He came to be arrested on 25/09/2021 and after the charge-sheet is filed, he is facing a trial.

2. Heard learned counsel Mr.Kuldeep Nikam for the applicant and learned A.P.P. Ms.Rutuja Ambekar for the State.

The investigating machinery was set into motion on an F.I.R. lodged on 24/09/2021 by one Madhukar Dahawad, working at Shahapur Police Station, stating therein that on 24/09/2021 at 2.40 a.m., one Ashif Iqbal Shaikh, Manager of Sahara Hotel, intimated that a tempo driver is lying injured in

a tempo, which was standing in the parking lot of Sahara Hotel. The complainant alongwith the Manager of the hotel proceeded towards the vehicle and found one person lying in an injured condition in the tempo, with the stab injuries on his neck and stomach.

3. The complainant, therefore, questioned the other tempo drivers, who had stated that they all are from Nashik and drive their tempos on Nashik-Mumbai Highway and halted at Sahara Hotel for dinner.

The case of the prosecution is, the deceased had met one Pralhad Bakhale, another tempo driver, and informed him that his brother was accompanying him and he assumed that they had slept together in the tempo. The deceased had dinner with Vijay Ingale. At around 2.00 a.m., one of the driver, namely, Kiran Patil heard some noise from the tempo belonging to the deceased and, therefore, he called the watchman, Aabas Khan from Sahara Hotel and asked him to check the tempo. The said watchman noticed one unknown man sitting on the driver seat of the tempo and he told him that he is the brother of deceased and they both had drunk and there was some issue between themselves. Said Aabas Khan, however, noticed that the palm of the said person, who spoke to him, had blood dripping. He suspected and informed the incident to the Manager of the hotel. It is alleged that the said person absconded from the spot and, thereafter, they came to know that the brother of the deceased i.e. the present applicant was present with him in the vehicle.

The applicant is accused of committing murder of his brother and he is charged.

4. Learned counsel Mr.Nikam would submit that there is no material against him in the charge-sheet and the case of the prosecution, which is based on circumstantial evidence, failed to establish any link between the death of his brother and the applicant. He would submit that the chain of circumstances, which the prosecution has placed in the charge-sheet, do not fit with each other and by no stretch of imagination, the case is, *prima facie*, established against him.

On the contrary, learned A.P.P. has invited my attention to the material compiled in the charge-sheet, which point out the applicant as responsible for causing death of Rajendra.

5. I have perused the material contained in the charge-sheet.

In the charge-sheet, a skech map has been compiled, which reveals that in the open premises opposite to Hotel Sahara, five vehicles were parked. The vehicle of the deceased, being MH04-FD-4681, was parked at the distance of 9 ft. from the four other vehicles belonging to the witnesses. The statements of the drivers, who had also parked their vehicles in the open ground in front of Sahara Hotel came to be recorded and compiled in the charge-sheet.

One Kiran Patil has stated that as his usual business trip, he started from Bhiwandi towards Nashik with the goods and as per his practice, in the night, he has halted at Sahara Hotel,

Khardi for having dinner. Between 9.45 to 10.00 p.m., he parked his vehicle in the precinct of the hotel, in the company of three other trucks/tempos. After having dinner together, they could notice Raju driver i.e. the deceased with his Eicher Tempo-Truck bearing No.MH04-FD-4681 and he disclosed to Pralhad that his brother is also accompanying him and also told him that it is difficult for two of them to sleep in the tempo cabin. When they went to sleep, he could hear the shriek from the Eicher Tempo-Truck and, therefore, he called the watchman, who noticed one person, sitting on the driver seat and he could not see him, as he was facing on the other side. Realizing his presence, the said person raised his hand and told that the two are the brothers and there is some family issue between them. When he raised his hand, it is noticed by the watchman that there was blood on his palm. This created suspicion and, therefore, he reported the incident to the Manager of the hotel. Statements of Pralhad Bakhade, Vijay Ingale, Sandip Jadhav and Abbas Khan, who had also halted on the same spot, are on similar lines and are compiled in the charge-sheet.

6. The charge-sheet also include the statement of one Gopi Varma, who has stated that he is acquainted with Ravi Kadam i.e. the applicant, who visited his garage for repairing of the vehicle. He stated that on 23/09/2022, the applicant came to his garage and deposited his vehicle with key and told him that he will pick up his vehicle on the next day. On 24/09/2021, between 4.00 a.m. to 5.00 a.m., he came back and took his vehicle. The witness disclosed him that there was no problem

with his vehicle and he did not accept the money offered, as the vehicle did not require any repair.

Statement of one Ishwarsing Rajput is recorded, who has stated that, on 24/09/2021, at around 9 o'clock, the applicant came in front of his shop and said that he sustained injury on his palm, while he was unloading some goods. He inferred that his brother had expired. Looking to the injury sustained by him from which the blood was oozing and some portion of the blood had coagulated, he asked him to visit the doctor.

The medical certificate is also compiled in the charge-sheet, which reflect that the applicant had sustained the injury.

7. Apart from this material, the statement of the mother of the deceased and the applicant is also on record, who reveal that there was some animosity between the two brothers and from her statement it is apparent that, deceased had only one brother i.e. the applicant. The mother had attributes motive to the applicant, as she states that the deceased was not on good terms with the applicant, as he had performed a love marriage and his wife, Sonali was often threatened by the deceased and she had disclosed to her, that he had also demanded sexual favours from her.

Statement of Sonali is also recorded and included in the charge-sheet, however, she does not disclose about any such incident.

8. In the wake of the material compiled in the charge-sheet, it can be seen that the prosecution has established the chain of circumstances to the effect that the deceased was in the company of the applicant, who is his only brother and though no one has seen him, he was referred to be in company of his brother. Further, the person who was present alongwith the deceased, had sustained injury on his palm and this injury is found on the palm of the applicant and noticed by two witnesses and even the medical certificate refers to the said injury. The statement of the witness, who has stated that the applicant had dropped his vehicle for repairing without any fault, is also another circumstance, as in the morning hours, he picked up his vehicle.

The aforesaid circumstances, being connected with one another, *prima facie*, establish the case of the prosecution against the present applicant in support of the charge that it is the applicant, who has caused death of his brother i.e. Rajendra. In the wake of the aforesaid material, which, *prima facie*, establish the guilt of the applicant, he does not deserve his release on bail.

9. Needless to state that the observations made above are, *prima facie*, in nature and limited to the extent of adjudication of the present application and the learned Judge trying the applicant for the offences with which he is charged, shall not get influenced by the above observations, in any manner.

Application is rejected.

(SMT. BHARATI DANGRE, J.)