

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 456 OF 2021

Vishal @ Mahada Nandu Shelke ..Applicant
Vs.
The State of Maharashtra ..Respondent

Mr. Aniket U. Nikam a/w. Mr. Piyush Toshnival a/w. Ashish Satpute
i/b. Vivek N. Arote, for the Applicant.
Mr. R. M. Pethe, APP for the Respondent / State.
ASI S. B. Pawar, Ranjangaon MIDC Police Station, Pune.

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CORAM : C.V. BHADANG, J.
DATE : 25 FEBRUARY 2022

P.C.

. This is an Application for bail. The Applicant has been chargesheeted for the offence punishable under Section 302 of IPC, for having intentionally caused the death of his cousin Siddhesh alias Pankaj Popat Shelke.

2. I have heard the learned counsel for the parties. Perused record.

3. From the FIR lodged by Pramod Shelke who is brother of the deceased, it appears that the deceased went missing from the house on 12 August 2017. On 13 August 2017, the informant alongwith his cousin brother Aashish made a search for the deceased and found that the dead body of the deceased was lying in the layout of one Shivale at Village Sonesangvi, with injuries on his person. The FIR came to be lodged against the unidentified person and during the investigation, the present Applicant was arrested and on completion of investigation, the chargesheet is filed.

4. The case is based on circumstantial evidence of (i) last seen together, (ii) alleged extra judicial confession to one Sukhdev, (iii) recovery of a slipper at the instance of the Applicant and a panchanama by which the Applicant had shown the spot of incident and (iv) recovery of a T-shirt of the Applicant having red stains.

5. I have gone through the record in the context of the circumstances, as stated above. In so far as the motive is concerned, the prosecution has relied upon the statement of Meenakshi Shelke who is sister of the deceased. She claims that the Applicant was interested in marrying her. However, it does not appear that it is her version that the deceased was opposed to this and was proving to be a hurdle in the said marriage. In so far as last seen together is concerned, there is statement of Sameer Shelke who says that he had

seen the deceased in the company of the Applicant on 12 August 2017, at about 9.00 p.m. The dead body was recovered after about 19 hours thereafter, at about 6.30 p.m. on 13 August 2017. The extra judicial confession is to one Sukhdev to whom the Applicant is not acquainted. It is submitted by the learned counsel for the Applicant that it is improbable that the Applicant would make any such confession to a person not known to him as normally such confession would be made to a man of confidence. The slipper allegedly recovered at the instance of the Applicant is not identified to be that of the deceased. The disclosure of the spot would also prima facie be inconclusive as the spot panchanama was already drawn prior to that. It cannot *prima facie* be said to be a fact discovered, within the meaning of Section 27 of the Evidence Act. The Applicant was arrested on 19 August 2017 and is in custody since then. The investigation is complete and the chargesheet is filed. The trial is likely to take some time.

6. In the result, the following order is passed.

ORDER

- (i) The Applicant Vishal @ Mahada Nandu Shelke be released on bail on executing a P.R. Bond in the sum of Rs.25,000/- with one or two solvent sureties, in the like amount.

- (ii) The Applicant shall undertake to remain present during the course of the trial, unless exempted.
- (iii) The Applicant shall not directly or indirectly make any attempt to contact the prosecution witnesses or otherwise tamper with the prosecution evidence.
- (iv) Bail bonds before the learned Sessions Judge.
- (v) It is made clear that the observations made herein are *prima facie* in nature and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.
- (vi) The Criminal Application is disposed of, in the aforesaid terms.

C.V. BHADANG, J.