

rajshree

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.2063 OF 2021

Ajay Ramayan Prasad Pandey	]	..	Applicant
vs.			
State of Maharashtra	]	..	Respondent

Mr.Rajesh Saluja a/w Avnendra Kumar i/b Rajesh Yadav for the Applicant.

Ms.Veera Shinde, APP for the State.

PI Vinod Patil, North Control Room present.

CORAM : BHARATI DANGRE, J

DATE : 6th OCTOBER, 2022.

P.C. :

1] The Applicant faces charge under Section 302 read with 120B of the Indian Penal Code. On registration of the subject CR he was arrested on 06.06.2019 and till date he remain incarcerated with the charge-sheet filed against him.

2] The prosecution machinery was set into motion when a wireless message was received that body of an unknown person is found near Aarey Colony, Goregaon (East).

Pursuant to the said message the dead body was traced and found to be belonging to a 45 years old person, who had multiple

injuries on his neck, chest and stomach. He was declared dead on being brought to the hospital. A report was lodged by the present Applicant, who is son of the deceased and he named unknown persons, who came to be arrested.

3] The learned counsel for the Applicant states that the prosecution case is based on circumstantial evidence and the prosecution attribute motive to the Applicant as the deceased used to demand money from him and the deceased continue an illicit affair with a woman.

The learned counsel, placed reliance upon an order dated 25.01.2021 passed in the case of co-accused Suresh Kumar @ Pinto Ramsamir Yadav in Bail Application No.606/2020, where he was released on bail relying upon the order dated 10.12.2020 passed in the case of co-accused Vinay Amarbahadur Singh (Bail Application No.317/2020).

4] When the learned APP is asked to distinguish the said order and particularly asked as to why benefit of the said order cannot be extended to the Applicant, she states that the Applicant has a strong motive to eliminate the deceased who was his father.

When asked to reveal the said material in the charge-sheet as distinguished from other two co-accused, she is unable to point out any such material.

Though she submits that blood stained clothes are recovered at the instance of the present Applicant, the report of analysis is awaited. The statement of witness Amarbahadur Shreshtha is also not relevant as it is alleged that the Applicant visited the chinese stall alongwith co-accused, but this witness is not subjected to test identification parade and in his statement recorded on 09.06.2019, he state that two persons

had visited his shop and the names of those two persons were revealed to him by the police as Ajay Pandey and Sureshkumar @ Pintu Yadav.

There is no reason as to why benefit of order dated 25.01.2021 cannot be extended to the present Applicant.

Hence, the following order :

ORDER

- (a) Application is allowed.
- (b) Applicant – Ajay Ramayan Prasad Pandey shall be released on bail in connection with C.R.No.107/2019 registered at Aarey Marg Police Station on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.
- (c) The Applicant shall be released on cash bail of Rs.25,000/- for a period of six weeks in lieu of sureties. During the said period the applicant shall arrange for the sureties.
- (d) The applicant shall report to the concerned Police Station on first Saturday of trimester between 10.00 a.m. to 12.00 noon.
- (e) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and should not tamper with evidence.
- (f) The Applicant shall regularly attend trial, on every date, unless exempted.

[BHARATI DANGRE, J]