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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.2817 OF 2021

Sanjay Subhash Pawar] .. Applicant
vs.
State of Maharashtra] .. Respondents

ALONGWITH
BAIL APPLICATION NO.975 OF 2022

Sanjaykumar Shreebadanram Harijan] .. Applicant
vs.
State of Maharashtra] .. Respondents

Mr.Salman Khan for both applicants.
Smt.A.A. Takalkar, APP for State.
PSI S.B. Kuchekar, Bhoiwada Police Station present.

CORAM : BHARATI DANGRE, J

DATE : 29TH JULY, 2022.

P.C.

1] Both the applicants are arraigned as accused Nos.2 and 3 in CR No.I-32/2020 registered with Bhoiwada Police Station. On completion of investigation charge sheet has been filed and the applicants are facing trial vide RCC No.422/2020. They are charged for the offence punishable under Section 302 read with 34 of the Indian Penal Code.

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2] Both the applicants came to be arrested on 08.03.2020. The charge-sheet reveal that one Kamlabai Rathod lodged a report on 07.03.2020 informing that she was residing at the given address with her family and she had two sons viz Ramesh and Bhima. In the proximity of her house one Tulshiram Chavan was residing and he was original resident of Hyderabad, but very rarely he used to visit his place of origin and he had informed that his brother was dead. On 06.03.2020 he was scared and came to her room. When asked he reported to her that his brother who was deceased had entered into her room and she consoled her it was just hallucination and therefore he slept in their house. On 07.03.2020 he left the house at 5.00 am. At round 7.30 a.m. she was informed by residents in the locality that some person was found dead near the electric transformer. On visiting the said place, the person found to be Tulshiram, who had stayed with her the previous night and apparently he was done to death by means of pointed weapon and he was seen lying in pool of blood.

3] The investigating machinery was set into motion. Her supplementary statement was recorded on 09.03.2020 when she stated that Tulshiram was addicted to liquor and used to often demand money, which was a cause of difference between him and Ramesh. Ramesh had confessed that on account of frequent quarrels, he had done Tulshiram to death.

4] On the basis of confessional statement of accused No.1 the present applicants came to be arrested. On arrest, accused persons led to the clothes which were seized by drawing panchanama under Section 27 of the Indian Evidence Act. The clothes were sent for analysis.

5] In the entire charge sheet there is no material against the present applicants linking them to the death of Tulshiram barring the seizure of their clothes, which were found to be blood stained.

The learned APP on the last date was directed to produce on record examination report of the clothes. Today, she has placed on record the report of Mini Forensic Science Laboratory dated 09.07.2020, but the said report do not support the prosecution case.

6] Accused No.1 Ramesh was released on bail by this Court on 28.01.2022 holding that except the confession before his mother, there is no material to connect him to the crime in question and his custody was held to be unnecessary, pending the trial.

7] The present applicants also deserve their liberty for the same reason that there is no material compiled in the charge sheet against them pointing out to their involvement, in the subject CR and the material, which was said to be incriminating, being recovery of clothes also negates their involvement.

8] In the wake of above, the applicants are entitled to set at liberty. Hence, following order :

ORDER

(a) Applications are allowed.

(b) Applicants – Sanjay Subhash Pawar and Sanjaykumar Shreebadanram Harijan shall be released on bail in connection with CR No.I-32/2020 registered with Bhoiwada Police Station on furnishing P.R. bond to the extent of Rs.25,000/- each with one or two sureties of the like amount.

(c) The applicants 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.

(d) It is made clear that the observations made above are restricted for determination of the application and the trial Court in any way shall not be influenced by the said observations, limited and restricted for this purpose.

(e) The Applicants shall regularly attend trial, on every date, unless they are exempted.

[BHARATI DANGRE, J]