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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.1678 OF 2020

Amit Rajendra Gaikwad ... Applicant
Vs.
The State of Maharashtra ... Respondent

Mr.Adwait Bhonde a/w Mr.Rohan Nahar for the Applicant.
Mr.S.R. Agarkar, APP for the Respondent–State.

CORAM : C.V. BHADANG, J.

DATE : 20 JANUARY 2022
(Through Video Conferencing)

P.C.

. By this application, the Applicant (Accused No. 4) is seeking bail. The Applicant alongwith four others is chargesheeted for the offence punishable under section 302, 201, 363, 364(A) and 387 r/w section 34 of IPC arising out of Crime No. 203 of 2019 of Police Station Borgaon, District Satara.

2. The deceased Tejas Jadhao aged about 17 years was the son of the complainant Vijay Anandrao Jadhao. Vijay Jadhao who is Sarpanch of the village Ashte had sold certain landed property. The accused nos 1 and 2 were aware of the sound financial condition of the complainant. On 11 December 2019 at about 19.30 pm the accused Nos. 1 and 2 had taken the deceased

on a motorcycle. He was killed by strangulation near Well of Balkrushna Salunkhe behind old *Choundeshwari* Temple and the dead body was dropped in the well by tying it with a cement pipe in order to destroy evidence.

3. The complainant lodged a missing complaint on 12 December 2019 with PS Borgaon. During investigation it was revealed that the accused including the applicant on 17 February 2020 at about 15.45 hours in furtherance of their common intention, made a demand of Rs 25 Lakhs with the complainant as ransom. The prosecution case is that the present applicant had made the ransom call from 'Oppo' mobile phone No. 7218454169 of accused No. 2 Ashish Salunkhe. In this case after investigation a charge sheet is filed.

4. I have heard the learned counsel for the applicant and the learned APP for respondent-state.

5. The learned counsel for the Applicant submitted that even according to the prosecution, it is not the case that the Applicant was part of the incident where Tejas Jadhao was done to death. It is submitted that the allegation against the Applicant is that after about 2 months of the said incident, the Applicant made a call to the father of the deceased from mobile phone of accused No.2 Ashish Salunkhe. It is submitted that the

investigation is complete and the chargesheet is filed and looking to the fact that at the highest the offence as against the Applicant would fall under Section 387 of IPC, which invites a maximum sentence of 7 years, the Applicant may be released on bail.

6. The learned APP has pointed out that all the accused were acting in concert and there is common intention in which the son of the informant was done to death for ransom, which demand was made by the present Applicant from the mobile phone of accused No.2 Ashish Salunkhe. It is submitted that the voice sample of the Applicant was sent to expert along with voice in the call made on 17.02.2020 at about 15.45 hrs making a demand of Rs.25 lakhs with the informant as ransom. It is submitted that the report shows that the sample matches with the voice quality of the call. In other words, it is submitted that there is evidence to show it was the Applicant who had made the demand showing his complicity. The learned APP submitted that the phone call was made by muffling it with a handkerchief to guard secrecy. It is submitted that the applicant has criminal antecedents to his discredit.

7. I have considered the circumstances and the submissions made. At least prima facie it appears that it is not the prosecution case that the Applicant has any role to play in kidnapping and murder of the deceased. The deceased went

missing on 11.12.2019, while the call is allegedly made on 17.02.2020. The dead body of Tejas was recovered from the well on 19.02.2020 as disclosed by accused Ashish. Thus, it prima facie appears that the allegation against the Applicant is of an offence under Section 387 of IPC, which invites a maximum sentence of 7 years, even considering the report about the voice sample. There is no recovery made from the present Applicant. The investigation is complete and the chargesheet is filed. In that view of the matter, I find that further detention of the Applicant may not be necessary.

8. In such circumstances the following order is passed.

ORDER

- (i) The applicant be released on bail on execution of a PR bond of Rs 25000/- with one or two solvent sureties in the like amount.
- (ii) The applicant shall not make any attempt to directly or indirectly to contact, threaten or influence the prosecution evidence or witnesses.
- (iii) Bail bonds before the learned Sessions Judge.

C.V. BHADANG, J.