

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.3605 OF 2021

Sagar Dinkar Shirgaonkar

...Applicant

Vs.

The State of Maharashtra

... Respondent

Mr. Sachin Deokar, for the Applicant.

Mrs. J. S. Lohokare, APP for the Respondent-State.

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CORAM : C.V. BHADANG, J.

DATE : 29 MARCH 2022

P.C.

. The Applicant (Accused No.1) has been chargesheeted alongwith four others, in Crime No.280/2020 of Police Station Kagal, District Kolhapur, under Section 302, 201 and 120-B r/w. 34 of IPC.

2. The Applicant was arrested on 19 September 2020 and since then, he is in custody. The investigation is complete and the chargesheet is filed.

3. The prosecution case is that deceased Geeta Shirgaonkar was the second wife of the Applicant. Even for deceased Geeta it

was her second marriage. There was dispute between the Applicant and the deceased as she was interfering with the cohabitation of the Applicant with his first wife who is alive. It is the specific prosecution case that the Applicant had hatched a conspiracy to eliminate the deceased and the contract was given to the Accused No.4 Rahul Korane, who in turn engaged Accused No.5 Prashant More for the purpose. Accused Prakash More in turn, hired Accused No.2 Akash Pasare and Accused No.3 Ganesh Jasud who eventually committed the murder of Geeta Shirgaonkar. It is the specific case that such conspiracy was hatched on 27 July 2020.

4. The deceased went missing on 30 July 2020 and it was the Applicant who reported the matter to the police. The dead body of Geeta was recovered from the sugarcane crop standing in the field of one Ashish Kiran Shah at Village Nipani, District Kolhapur on 19 September 2020. The dead body was in a highly decomposed state, beyond recognition. However, she was recognised by her brother on the basis of her clothes. Be that as it may, the dead body was said to be recovered at the instance of Accused No.2 who gave a confessional statement disclosing the alleged conspiracy between the Applicant and the other accused to eliminate the deceased. According to the prosecution, it transpired that the Accused Nos.2 and 3 have caused the death of Geeta Shirgaonkar.

5. I have heard the learned counsel for the Applicant and the learned APP. With the assistance of the learned counsel for the parties, I have gone through the record.

6. It is necessary to note that the case is based on circumstantial evidence as there is no eye witness account of the incident available on record, in which Geeta Shirgaonkar was done to death.

7. The learned counsel for the Applicant has submitted that the statement of the witness Sataappa Gaikwad on the point of the last seen together is recorded on 19 September 2020 i.e. after recovery of the dead body. He submitted that at no point of time, prior thereto, any of the witnesses have stated about the deceased being last seen together with the Applicant.

8. Learned APP has submitted that it transpired during the course of investigation that there were three sim cards which were used by the deceased and the Applicant had falsely claimed that he had destroyed one of the handset with the simcard.

9. I have considered the circumstances and the submissions made. The prosecution has placed reliance on three circumstances namely (i) The Applicant being last seen together with the deceased, (ii) the confessional statement of the Accused

No.2 and (iii) the CDR record. In so far as the circumstance about last seen together is concerned, it does appear that the statement of the witnesses including Sataappa Gaikwad are recorded on 19 September 2020 i.e. much after the deceased went missing on or about 30 July 2020. The second circumstance is based on the confessional statement of a co-accused. *Prima facie*, it can be seen that the confessional statement that too of co-accused would be a weak piece of evidence to show the complicity of the accused in the offence. The last one is the CDR record. In this case, the investigation is complete and the chargesheet is filed. The Applicant was arrested on 19 September 2020 and is in custody since then. There is no recovery of any article much less any incriminating article from the Applicant. I do not find any reason to detain the Applicant behind bars pending trial. The Applicant can be released on bail, subject to conditions.

ORDER

- (i) The Criminal Bail Application is allowed.
- (ii) The Applicant Sagar Dinkar Shirgaonkar, be released on bail in Crime No.280/2020 of Police Station Kagal, District Kolhapur, on executing a P.R. Bond in the sum of Rs.25,000/- with one or two solvent sureties, in the like amount.

(iii) The Applicant shall undertake to remain present before the learned trial Court during the course of trial, unless exempted.

(iv) The Applicant shall not directly or indirectly make any attempt to contact or to influence the prosecution witnesses or to otherwise tamper with the prosecution evidence / witnesses, in any manner.

(v) In the event of breach of any of the conditions, the bail is liable to be cancelled.

(vi) The Criminal Application is disposed of, in the aforesaid terms.

C.V. BHADANG, J.