

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3906 OF 2021

AJAY @ NANA JALINDHAR LONDHE)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Aniket Nikam a/w. Mr.Aashish Satpute a/w. Mr.Piyush Toshnival i/b. Mr.Amit Icham, Advocate for the Applicant.

Mr.Ameet Palkar, APP for the Respondent – State.

CORAM : V. G. BISHT, J.

**RESERVED ON : 17th DECEMBER 2021
PRONOUNCED ON : 31st JANUARY 2022**

P.C. :

1 The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in Crime No.246 of 2016 registered with Police Station Warje Malwadi, for offences punishable under Section 302, 201, 365,

AVK

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323, 504 read with 34 of the Indian Penal Code (IPC), under Sections 37(1)(3) read with 135 of the Maharashtra Police Act and under Section 4(25) of Arms Act.

2 On 23rd May 2016, informant was attending the marriage ceremony of Aba Tupere. At about 7.00 p.m., one of the guests in the said ceremony told the informant that her son Sachin (deceased) is being forcibly taken away by the applicant and his friends. Accordingly, informant rushed and noticed that the applicant was forcibly taking with him the deceased by holding his collar. When the informant confronted the applicant, she was pushed away, abused and asked to go inside the marriage hall. Even, it is alleged, the applicant gave kick blows on her abdomen and during that scuffle, gold chain of one tola on her person went in hands of the applicant. The prosecution alleges that the applicant forcibly made the deceased to sit on a white Aactiva and took him away. Other co-accused also followed him.

3 According to prosecution, on 24th May 2016, Police Patil Pandurang Renuse found the dead body of a male boy in the valley region near the temple of Kalubai. The body was identified to be the dead body of the deceased. Accordingly, charge-sheet came to be filed against the applicant and other co-accused.

4 Mr.Aniket Nikam, learned counsel for the applicant, submits that the case of prosecution is based on circumstantial evidence. The statement of prosecution witness, namely, Jamuna Vilas Tupere, mother of deceased and other witnesses, namely, Ajinkya Ajay Shinde and Akshay Suresh Palaskar are contradictory in nature. The other co-accused are released on bail. Investigation is over and charge-sheet has been filed. In such circumstances, no purpose would be served by keeping the applicant behind the bars, argued learned counsel.

5 Mr.Ameet Palkar, learned APP, on the other hand, fairly submits that submissions advanced by the learned counsel

for the applicant are correct and proper and in the circumstances, appropriate order may be passed.

6 Perused the investigation papers. I have also gone through the statements of prosecution witnesses named by the learned counsel for the applicant. Statement of mother of deceased, namely, Jamuna Vilas Tupere shows that the deceased was taken on a white Activa scooter by the applicant. On the other hand, statement of Ajinkya Ajay Shinde shows that it was co-accused Chiklya Mhaske who had made the deceased sit on the scooter and behind the deceased was co-accused Vasant Kamble. He nowhere states that it was present applicant who had forcibly taken the deceased on the Activa scooter as the case is put forth by the prosecution. His statement further shows that after sometime applicant and his other friends followed the said scooter. Thus, there is a direct conflict between the statement mother of deceased and the other witnesses.

7 Similar is the statement of Akshay Suresh Palaskar.

8 Except the above facts, no other cogent and convincing evidence is forthcoming to point out the involvement of the applicant in the alleged crime. Investigation is over and charge-sheet has been filed. No criminal antecedents are forthcoming.

9 Having regard to the material on record, in my view, the applicant has made out a case for bail. Hence, I pass the following order :

ORDER

- (i) Applicant – Ajay @ Nana Jalindhar Londhe shall be released on bail in Crime No.246 of 2016 registered with Police Station Warje Malwadi, on his executing P.R.Bond in the sum of Rs.25,000/- with one or two sureties in like amount.
- (ii) The applicant shall not tamper with prosecution evidence.
- (iii) The applicant shall attend the Court proceedings regularly.

- (iv) Bail before the trial Court.
- (v) Parties to act on copy of this order duly authenticated by the Sheristedar of this Court.
- (vi) It is made clear that the observations made herein are prima facie and the trial Court shall decide the case on its own merit, in accordance with law, uninfluenced by the observations made in this order.
- (vii) The application is allowed in the aforesaid terms and stands disposed off accordingly.

(V. G. BISHT, J.)