

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 3693 OF 2021

Pooja Sachin Pawar ..Applicant
Vs.
The State of Maharashtra ..Respondent

Mr. Aniket Vagal, for the Applicant.
Mr. S. R. Agarkar, APP for the Respondent / State.
PH 1621 V. M. Sabale – Manohar Police Station Pune (Rural).

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CORAM : C.V. BHADANG, J.
DATE : 15 FEBRUARY 2022

P.C.

. By this Application, the Applicant – Accused No.2 is seeking bail.

2. The Applicant alongwith co-accused Yogesh Gaikwad has been chargesheeted for the offence punishable under Section 302, 201 and 120-B r/w. 34 of IPC arising out of Crime No.109/2017 of Police Station Manchar, District Pune, for having intentionally caused the death of Sachin Sakharam Pawar who is the husband of the Applicant. The Applicant and the co-accused are alleged to have

disposed of the dead body in *Ghod* river bed with an intention to destroy evidence.

3. On 12 May 2017, at about 8.00 a.m. Lahu Gajanan Indore noticed a gunny bag floating in the *Ghod* river. The matter was informed to the police and the gunny bag was taken out and it was found containing headless body of a male. On the basis of a complaint lodged by Lahu Indore, the aforesaid offence was registered against an unidentified person. During the course of investigation, it was found that Applicant and her husband were earlier staying at Taluka Malkapur, District Kolhapur where the Applicant got acquainted with the Accused No.2. It appears that the Applicant alongwith her husband shifted to Sinnar, District Nashik where they were staying in a rented room of Sanjay Namdev Bagul. However, the Applicant continued to remain in contact with the Accused No.2. On 10 May 2017, in the midnight, it is alleged that Applicant and the co-accused assaulted the deceased with a knife in which his head was severed and the same was disposed of in separate gunny bags in the river bed on the Nashik to Pune Road. It may be mentioned that the head of the deceased was not traced. The dead body was identified by Khandu Indore and Sitaram Indore. During the course of the investigation, the Investigating Officer recorded the statement of witnesses including Ravindra Kanaskar who was having a Tata vehicle bearing No.MH-14-EM-5178. He

claims that a person alongwith a lady and a 6 to 7 years boy were carried by him with a blue colour barrel and two gunny bags towards Gosavi Mala and they had alighted on the road with the barrel and two gunny bags. It appears that the statement of the child witness who is a son of the Applicant and the deceased was also recorded during the course of investigation and on completion of investigation, the chargesheet is filed.

4. I have heard the learned counsel for the parties. Perused record.

5. It is submitted by the learned counsel for the Applicant that the case is based on circumstantial evidence. It is submitted that there are no circumstances indicating the involvement of the Applicant in the offence. The learned counsel has taken me through the record in order to point out that the circumstances do not make out a complete chain so as to unerringly point to the guilt of the Applicant. It is submitted that the Applicant was arrested on 25 November 2017 and since then is in jail alongwith the minor child. The investigation is complete and the chargesheet is filed. He therefore submitted that the Applicant be released on bail.

6. Learned APP has submitted that the offence is heinous in as much as the Applicant had hatched a conspiracy with the co-accused

to eliminate her husband. It is submitted that after this, the Applicant and the co-accused were staying as husband and wife. Even the co-accused is shown to be the father of the child in the school record. He submitted that there is a statement of the child witness which is sufficient to show the involvement of the Applicant.

7. I have carefully considered the circumstances and the submissions made. The prosecution case is that the Applicant and the co-accused had hatched a conspiracy to eliminate the deceased purportedly because he was proving a hurdle in the relationship of the Applicant and the co-accused. The case is based on circumstantial evidence as there is no direct evidence showing involvement of the Applicant on record. I have gone through the statement of Ravindra Kanaskar as also the child witness and *prima facie* at the highest they would show an offence of the disposal of the dead body within the meaning of Section 201 of the IPC in order to screen themselves from punishment. In my considered view, *prima facie*, the circumstances may indicate a strong suspicion. The Applicant is arrested on 25 November 2017 and is stated to be in custody alongwith the child. In addition, in my considered view, the Applicant would also be entitled to the benefit of the first proviso to Sub-Section 1 of Section 437 of Cr.P.C.

8. In the result, the following order is passed.

ORDER

- (i) The Criminal Bail Application is allowed.
- (ii) The Applicant Pooja Sachin Pawar be released on bail, 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 Sessions Judge during the course of trial.
- (iv) The Applicant shall not directly or indirectly make any attempt to tamper with the prosecution evidence or witnesses.
- (v) The Applicant shall furnish her permanent residential address alongwith proof before the learned Sessions Judge.
- (vi) It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.
- (vii) Bail bonds to be furnished before the learned Sessions Judge.

C.V. BHADANG, J.