



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2130 OF 2023

Mahesh Bhimrao Gore

...Applicant

Versus

The State of Maharashtra

...Respondent

WITH
INTERIM APPLICATION NO. 3418 OF 2023
IN
CRIMINAL BAIL APPLICATION NO. 2130 OF 2023

Amrut @ Amit Gokul Nannaware

....Applicant

IN THE MATTER BETWEEN

Mahesh Bhimrao Gore

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Aniket Ujjwal Nikam a/w Mr. Aashish Satpute a/w Mr. Piyush Toshniwal i/b Mr. Amit Icham for the applicant

Mr. J. P. Yagnik Addl PP for the State

Mr. Atul R. Patil for the intervener through video conferencing

CORAM : GAURI GODSE, J.

DATE : 20th DECEMBER 2023

P.C. :

1. This is a second bail application filed by accused no. 5. The first

application was dismissed as withdrawn vide order dated 18th May 2023 passed by this Court (Coram: Gauri Godse, J.); hence, the present application, being a successive bail application, is placed before me.

2. Intervention Application No. 3418 of 2023 filed by the complainant is heard and allowed.

3. Heard learned counsel for the parties. The applicant, by this application, seeks his enlargement on bail in connection with CR No. 117 of 2022 dated 4th March 2023, registered with Barshi City Police Station, District Solapur, for offences punishable under Section 304-B and 34 of the Indian Penal Code. Chargesheet is filed for the offences punishable under Sections 302, 304B, 201 and 34 of the Indian Penal Code.

4. Learned counsel appearing for the applicant submitted that accused no. 1 Swapnil is the husband of deceased Priti. Accused no. 3 Jyoti is the sister of accused no. 1, i.e. sister-in-law of the deceased. Applicant-Mahesh is the husband of Jyoti-accused no. 3, and he is

arraigned as accused no. 5. Learned counsel for the applicant submitted that as per the statement of the complainant, i.e. brother of the deceased, allegation against the applicant is that the deceased had informed him telephonically on 2nd March 2023 regarding certain disputes between the deceased and her husband and that the applicant had also quarrelled with the deceased regarding demand of money. Learned counsel for the applicant further submits that the complainant has alleged that the present applicant had telephonically informed him that the deceased Priti had committed suicide. He further submitted that though the applicant is not involved in any of the offences as alleged, he has been arraigned as accused only because the incident had occurred in the well situated in the premises belonging to the applicant. He submitted that though FIR was registered only for the offence punishable under Section 304B, a charge under Section 302 was subsequently added on the basis of the postmortem report and the medical evidence. Learned counsel for the applicant submitted that there is no involvement of the applicant seen on the basis of the material relied upon by the prosecution which is part of the charge-

sheet. He also submitted that accused no. 3-Jyoti, i.e., the applicant's wife, was granted anticipatory bail, though the allegations against her are similar in nature. He also submitted that the investigation is completed, and the chargesheet was filed on 27th May 2022. He thus submitted that the material on record does not show any involvement of the applicant in the crime, and hence, he be enlarged on bail.

5. Learned APP opposed the application and pointed out that the statement of Latabai Navale shows that the deceased knew swimming and, therefore, it is not possible that she had jumped into the well and tried to commit suicide. He submitted that the material on record, including the medical evidence, shows that the applicant is involved in the crime, and hence, it is not a fit case to grant bail. He also submitted that on the basis of material on record, it is clear that even if the applicant may not be held liable for the offence punishable under Section 302 of the Indian Penal Code, however, there is sufficient material to show that he is liable for the offence punishable under section 201 and 34 of the Indian Penal Code.

6. Learned counsel appearing for the intervener, who is the complainant, submitted that medical evidence would show that the well where the deceased was found dead was only 5 feet deep and the height of the deceased was 5.3 feet, and therefore, it is not possible that the deceased died by drowning in an attempt to commit suicide. He further submitted that medical evidence would show that there were injuries caused to the deceased. He also relied upon the statement of the complainant that the deceased herself had informed the complainant with respect to the quarrel which had taken place in the house of the applicant. He submitted that the incident was also informed to the complaint by the present applicant by stating that the deceased had committed suicide. He further submitted that the incident had occurred in the premises belonging to the applicant and hence, presumption under Section 114 of the Indian Evidence Act is applicable. He further submitted that the applicant is an influential person, and hence, he is likely to influence the panch witnesses who are also residents of the area where the applicant is residing. He thus submitted that this is not a fit case where the applicant should be

released on bail.

7. I have perused the papers. Perusal of the statements as well as medical evidence prima facie do not indicate any direct role of the applicant in the offence. It is not disputed that the investigation is complete, and a chargesheet is also filed. Thus, having regard to the aforesaid circumstances, prima facie, the submissions made on behalf of the applicant bears substance. In view of the above, the applicant has made out a case for a grant of bail.

8. Hence, following order is passed.

ORDER

I. Criminal Bail Application is allowed.

II. Applicant-Mahesh Bhimrao Gore-accused no. 5 be released on bail in connection with CR No. 117 of 2022 dated 4th March 2023 registered with Barshi City Police Station, District Solapur, for offences punishable under Sections 302, 304B, 201 and 34 of the Indian Penal Code on furnishing P.R. bond in the sum of Rs. 50,000/- with one or more sureties in the like amount.

III. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case and shall not tamper with any evidence.

IV. The applicant shall submit his address where he will be residing and his contact/mobile number to the Investigating Officer and in the event any change in the address or contact/mobile number, he will intimate the same to the Investigating Officer forthwith.

V. The applicant shall attend Barshi City Police Station and report to the Investigating Officer on every 2nd and 4th Saturday of every month in between 10.00 a.m. to 1.00 p.m.

VI. The applicant shall attend all the dates of hearing before the trial court.

VII. In the event of breach of any of the conditions by the applicant, the prosecution will be entitled to apply for cancellation of bail.

Parties to act on the authenticated copy of this order.

[GAURI GODSE, J.]