

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL BAIL APPLICATION NO. 1957 OF 2022**

Mahendra Shantaram Bodke

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Satyam H. Nimbalkar a/w Mr. Abhishek Arote, Ashish R.
Kachole, Ruturaj Ranaware for Advocate for Petitioner.

Mrs. A. A. Takalkar, APP for Respondent-State.

Mr. V. D. Dabade PI Bhore Police Station, Pune.

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CORAM : PRAKASH D.NAIK, J.**DATE : 14th FEBRUARY, 2023.****P.C.:-**

1. Applicant was arrested on 18th January 2019 in connection with C.R. No. 9 of 2019 registered with Bhore Police Station, Pune for offences punishable under Sections 302, 201 of the Indian Penal Code.
2. The First Information Report was lodged by Hanumant Ganpat Dere on 14th January 2019. The complainant noticed dead body of unknown person in the bushes. It was tied with rope. He informed about it to Sarpanch of the village and other persons. All of them went to the said spot. The deceased had suffered injury. Hands of the deceased were tied with telephone wire. The First Information Report was lodged against unknown person. On completing investigation, charge-sheet was filed.

3. The applicant preferred Bail Application No.774 of 2021 before this Court. The said application was withdrawn as the Court was not inclined to grant bail. However, vide order dated 23rd July 2021 it was directed that, in the event there is change in circumstance, the applicant is at liberty to prefer fresh application for bail. Considering the fact that, the applicant was in custody for substantial period of time, trial was expedited.

4. Learned Advocate for applicant submitted that, there is no progress in the trial. The applicant is in custody for a period of four years. Charge is not framed. The case is based on circumstantial evidence. It is not clear as to when the trial would come to an end. Co-accused Ajay Pradip Barmukh is granted bail by this Court vide order dated 28th September 2021. On the ground of long incarceration in custody, the applicant is entitled for bail.

5. Learned APP submitted that, the previous application preferred by applicant was withdrawn since, the Court was not inclined to grant bail. There is no change in circumstances. There is strong evidence against the applicant. The applicant took victim to the flat where he was killed. There is evidence of statement of security guard, who saw the victim in the company of applicant. Vehicle was hired by the applicant to carry body. Statement of driver of vehicle indicate that, accused carried something in bag and threw it in bushes. Weapon was recovered from the spot of incident. Statement of driver of vehicle supports the prosecution case. Registration number of car

was noted in register of society. The applicant is involved in another case registered vide C.R. No.143 of 2017 registered with Pune City Police Station under Sections 392, 504, 506 of IPC. Evidence of CDR is incriminating against applicant. The security guard has seen applicant with victim. The prosecution propose to examine 25 witnesses. Trial would be over within 9 months.

6. There is no eye witness to the incident. The applicant is in custody from 18th January 2019. Case is based on circumstantial evidence. The previous application preferred by applicant was withdrawn on 23rd July 2021. However, trial was expedited with liberty to file fresh application for bail in the event there is change in circumstances. There is no progress in trial. Statement of Mukesh Pawar, who is the driver of car hired by applicant for allegedly throwing body of deceased was recorded on 26th January 2019. Statement of Vishwanath Nanavare security guard in the building where alleged incident had occurred was recorded on 27th January 2019. These statements were recorded after arrest of applicant. According to security guard Mr. Nanavare, Rajashree Zhurunge, maid servant was instructed to clean room where victim was killed. Her statement is recorded. She did not notice anything suspicious. No blood was found while cleaning room. Iron rod was allegedly recovered from applicant on 26th January 2019 from flat where victim was killed. No blood noticed on

weapon. Before recovery, applicant had showed the flat on 20th January 2019 where victim was killed. However, at that time, recovery of weapon was not effected. According to Vishwanath Nanavare, applicant, co-accused Ajay Barmukh and victim were together on the date of incident when they allegedly went to flat and killed the victim. Ajay Barmukh was granted bail by this Court on 28th September 2021. There are no chances of trial getting concluded shortly. The applicant is in custody for substantial period of time. Hence, bail can be granted on conditions. It is not clear as to when the trial would be over.

ORDER

- (i) Criminal Bail Application No.1957 of 2022 is allowed;
- (ii) Applicant is directed to be released on bail in connection with C.R. No.09 of 2019 registered with Bhore Police Station, Taluka Bhore, District Pune on executing P.R. Bond in the sum of Rs.50,000/- with one or more sureties in the like amount;
- (iii) Applicant is permitted to furnish cash bail security in the sum of Rs. 50,000/- for a period of 6 weeks in lieu of surety;
- (iv) Applicant shall attend Bhore Police Station once in a three months on every first Saturday of the month between 11:00 am to 1:00 pm till further orders;
- (v) Applicant shall not tamper with the evidence;

(vi) Applicant shall attend the trial Court on the date of hearing of the case regularly unless exempted by the Court;

(vii) Application stands disposed off.

(PRAKASH D. NAIK, J.)