

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 2110 OF 2022

VAISHALI
ANIL
TIKAM

Tejas Sanjay Nikalaje

.... Applicant

Versus

The State of Maharashtra

.... Respondent

WITH

INTERIM APPLICATION No. 3769 OF 2023

IN

BAIL APPLICATION No.2110 OF 2022

Yogendra Rajaram Gaikwad

...Applicant

In the matter between

Tejas Sanjay Nikalaje

.... Applicant

Versus

The State of Maharashtra

.... Respondent

Ms. Isha Saglani i/by Mr. Amrish Salunke, Advocate for the Applicant.

Mr. A.A. Palkar, APP for Respondent-State.

Mr.Vivek V. Salunke, Advocate for Intervenor in IA 3769 of 2023

P.I. Mangesh Shinde (Wadala Police Station) is present.

CORAM : SHIVKUMAR DIGE, J.

DATE : 17th OCTOBER, 2023.

P.C. :

1. By this application, applicant is seeking bail in Crime No. 272 of 2021 registered with Wadala Police Station for offences punishable under Sections 302. 201 r/w. 34 of Indian Penal Code, 1860 and under Section 37(1), 135 of Mumbai Police Act.

2. It is prosecution's case that First Informant Chandrakant Talwar lodged complaint, stating that unknown persons committed the murder of Shekendra Gaikwad. During the investigation, it was transpired that on account of illicit relationship between the mother of Accused No.1 Ankit and deceased Shekendra, Accused No.1 Ankit and Applicant committed the murder deceased Shekendra.

3. It is the contention of learned counsel for applicant that the Applicant has been falsely implicated in this case. No incriminating material is produced on record to show the involvement of the Applicant in the said crime. The knife used in the crime is recovered at the instance of Accused No.1. Learned counsel further submitted that the allegations against the Applicant are that he had tried to destroy the evidence by washing blood stained clothes. The Applicant is behind bar for more than two years. Investigation is completed, charge-sheet has been filed. Hence, requested to allow the application.

4. The learned counsel for the Intervenor submits that the Applicant along with Accused No.1. Assaulted the deceased with knife and in the said assault deceased died. Learned counsel further submitted that in the statement of witness Nihal Singh he has stated

that he had seen accused No.1 and accused No.2 in front of her house with bloodstained clothes. The witness Sangita Kambli stated that Accused No.1 told her that he is going to sleep in the house of the Applicant. There are statements of other witnesses to show the role of the Applicant. There is prima facie case against the Applicant. Learned counsel submits that the intervenor- applicant has filed petition before this Court, which is pending before the Division Bench of this Court about faulty investigation by the police, hence, requested to reject the application. Learned APP reiterates the submissions of learned counsel for intervenor.

5. I have heard both learned counsel, perused the FIR and charge-sheet.

It is alleged that Applicant and Accused No.1 committed murder of deceased Shekendra. The knife allegedly used in the crime is recovered at the instance of accused No.1. The prosecution case is based on circumstantial evidence. It is prosecution's case that mother of Accused No.1 and deceased Shekendra had illicit relations. No incriminating material is produced on record to show the involvement of the Applicant in the said crime. The Applicant is behind bar for more than two years. Yet charge has not been

framed. It may take time to conclude the trial. Investigation is completed and charge-sheet has been filed.

6. Considering the above facts, applicant's further detention is not required, hence I pass following order :

ORDER

- (i) Applicant be enlarged on bail Crime No. 272 of 2021 registered with Wadala Police Station on executing P.R.Bond in the sum of Rs.30,000/- with one or two sureties in the like amount.
- (ii) Applicant shall attend the concerned police station once in a month i.e. on first Monday between 11.00 a.m. to 3.00 p.m. till framing of charge.
- (iii) Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.
- (iv) The Trial Court shall decide the case on its own merits in accordance with law and uninfluenced by the observations made in this order.

7. The application is allowed in the aforesaid terms and is accordingly disposed off.

8. All concerned to act on the authenticated copy of this order.

(SHIVKUMAR DIGE, J.)