

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 3829 OF 2022

Jayesh Harischandra Khadke ... Applicant

V/s.

State of Maharashtra ... Respondent

.....
Mr. Balwant Salunkhe, Advocate for Applicant.
Ms. P. N. Dabholkar, APP for Respondent-State.
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CORAM : SHIVKUMAR DIGE, J.

DATE : 7 OCTOBER, 2023

P C:-

1. By this Application, Applicant is seeking bail in C.R.No. 116 of 2022 registered with Kinhavali Police Station, Shahapur, Thane for the offence punishable under Sections 302, 201 of Indian Penal Code, 1860 (for short "IPC").

2. It is the prosecution's case that, Applicant and deceased had committed theft, the deceased had repentance of the said theft and he was telling the Applicant to return all stolen gold ornaments. It is alleged that Applicant thought that due to repentance of deceased his theft would be disclosed and he would be defamed,

hence he committed murder of deceased by assaulting with stone on his head and thereafter he burned his body by pouring petrol on it.

3. It is the contention of learned counsel for the Applicant that prosecution's case is based on circumstantial evidence. There is no recovery at the instance of Applicant. There is delay of 14 days in filing FIR. No postmortem of dead body of victim is done. Applicant is behind the bar for more than one year and four months. Hence, requested to allow the Application.

4. It is the contention of learned APP that, Applicant and deceased had committed theft. Deceased want to return the theft articles due to which Applicant got angry and he committed murder of deceased. There is witness who states that Applicant had taken petrol from him to burn the dead body of deceased. There is *prima facie* case against the Applicant. Hence, requested to reject the Application.

5. I have heard both the learned Counsel. Perused the FIR and charge-sheet. It is alleged that Applicant had committed murder of deceased. There is no recovery at the instance of Applicant. There is delay of 14 days for filing FIR. The prosecution's case is based on circumstantial evidence. The case against the Applicant can be proved by way of evidence but for that detention of Applicant

is not required. Applicant is behind the bar more than one year four months. Investigation is completed and charge-sheet has been filed.

6. In view of the above, I pass following order :

ORDER

- (i) Applicant be enlarged on bail in C.R.No. 116 of 2022 registered with Kinhavali Police Station, Shahapur, Thane, 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 inform his latest place of residence and mobile number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Investigating Officer.
- (iv) Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

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

8. It is made clear that the above observations are made only for the purpose of granting bail and the Trial Court shall decide the case on its own merits in accordance with law and uninfluenced by the observations made in this order.

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

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KILAJE

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(SHIVKUMAR DIGE, J.)