

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1741 OF 2024

Shrikrishna Arjun Mane ... Applicant
Vs.
State of Maharashtra ... Respondent

Mr. Sachindra B. Shetye a/w. Mr. Akshay Panasare and Mr. Nipun Sawant for Applicant.

Mr. Prasanna P. Malshe, APP for Respondent-State.

Mr. Dilip Pawar, PI, Laxmipuri Police Station, Kolhapur.

CORAM : MANISH PITALE, J.
DATE : JULY 10, 2024

P.C. :

. Heard Mr. Shetye, learned counsel for the applicant and Mr. Malshe, learned APP for the respondent-State.

2. The applicant is apprehending arrest in connection with FIR No.0187 dated 04.04.2024 registered at Laxmipuri Police Station, District - Kolhapur, for offence under Section 302 read with Section 34 of the Indian Penal Code, 1860 (IPC).

3. On the date of registration of the FIR, only three persons were shown as accused i.e. Shubhangi Powar, Shridhar Powar and Santosh Adsule. It appears that subsequently, further accused persons were added. At one point in time, there were total eight accused persons but as on today, there are six accused persons i.e. the three persons named in the FIR, one Prashant, Krunal and the applicant before this Court.

4. The learned counsel appearing for the applicant is at pains to point out that even if the statements recorded during the course of investigation and the entire material placed along with the charge-sheet

is to be taken into consideration, there is nothing to connect the applicant with the incident in question, other than utterance of a statement attributed to the applicant in Pune, a day before the incident and the memorandum under Section 27 of the Indian Evidence Act, 1872 (Evidence Act) of accused No.1 - Shubhangi recorded during the course of the investigation. It is submitted that in the course of investigation itself, statement of one of the witnesses shows that the applicant had left the place of the incident at about 4:00 a.m. in the morning and the doctor was called to examine the victim at about 6:00 a.m. and subsequently, she was declared dead. The post-mortem report revealed as many as 19 injuries on the body of the victim and the persons last accompanying her were accused Nos.1 to 3. It is submitted that the applicant is the head of a religious Math and his arrest would have its own repercussions for the Math as well as the applicant and his image. It is further submitted that even if the incident is said to have been taken place within the premises of the Math, that in itself cannot necessarily lead to the conclusion that the applicant as the head of the Math is a part of the conspiracy in the present case.

5. The learned APP has vehemently opposed the prayer made in the present application. He submits that the applicant is the only absconding accused, while all the other five accused persons have been arrested. Reliance is placed on statements of witnesses, indicating that the involvement of the applicant is obvious. It is submitted that direct material available for conspiracy is always difficult to produce and it has to be inferred, but there are enough indicators to show that it was at the behest of the applicant as the head of the Math, who was concerned about the image of the Math, leading to the act being undertaken by the co-accused persons, which caused the death of the victim.

6. This Court has considered the material on record in the light of

the rival submissions. The backdrop of the incident is crucial for the present case. According to the investigating authority, upon investigation, it is found that the victim was having an affair with a boy named Vaibhav Shelake. It appears that they also had physical relationship and in that backdrop, when the families of the two individuals met at Pune in the presence of the applicant as the head of the Math of whom the families are devotees, a discussion ensued about the relationship between the two individuals and as to whether they should get married. It appears that the victim was not interested in marriage, although she wanted to continue in a live-in relationship. The boy was unwilling to do so, at which point, it is alleged that the applicant stated in the presence of the members of the two families, including the said Vaibhav Shelake, that the victim is giving a bad name to the applicant also; she is unlikely to change and that something has to be done about this.

7. Subsequently, it is alleged that the victim with her mother, brother, the applicant and another person went in a car from Pune to Kolhapur. It is further alleged that the victim, her brother (accused No.2) and mother (accused No.1) stayed with Santosh Adsule (accused No.3) within the premises of the Math.

8. Next day in the morning, a doctor was called at about 6:00 a.m. on the ground that the victim was feeling uneasy. The statement of the doctor shows that she visited the victim in the morning at about 6:10 a.m. and she found that the victim was not feeling well. She advised that the victim be taken to the hospital as her blood pressure appeared to be low. Thereafter, the victim was taken to the hospital and she was found dead. The post-mortem report revealed about 19 injuries on the body of the victim and the cause of death was recorded as 'multiple contusions with the injuries being sufficient to cause the death of the victim'.

9. The statements of the witnesses brought to the notice of this Court indeed show that the applicant was with the victim, her mother and brother at Pune on the day prior to the incident. He is alleged to have uttered the aforementioned words when discussion took place about the manner in which the relationship of the victim was to be taken forward with the boy Vaibhav Shelake. The statements on record show that the applicant accompanied the victim along with accused Nos.1 to 3 to reach the Math at Kolhapur.

10. The statement of one of the witnesses i.e. Sulochana Birajdar, recorded during the course of investigation, shows that she was also in the Math and in the house where the applicant spent the night in the Math. She has stated that the applicant along with other persons left the Math at 4:00 a.m. in the morning and it is submitted on behalf of the applicant that he had to leave for reaching Tasgaon where he was to inaugurate a medical shop in the evening. The statement of the doctor, who was called in the morning shows that she visited the victim at about 6:00 a.m. The doctor does not mention any injuries on the body of the victim, although she suggested that the victim be taken to the hospital as her blood pressure was low.

11. The learned APP has placed much emphasis on the contents of the memorandum executed under Section 27 of the Evidence Act, concerning accused No.1 i.e. the mother of the victim. In her statement, she has alleged that the applicant conspired to eliminate the victim. This Court finds that, at this stage, other than the aforesaid memorandum executed under Section 27 of the Evidence Act and the statement attributed to the applicant at Pune, one day prior to the incident, there is no material to link the applicant with the actual incident. The statement which the applicant is alleged to have uttered at Pune, at the most, indicates his anxiety about the Math and he himself being maligned due

to the conduct of the victim and that according to him, something was required to be done.

12. This Court is of the opinion that even if the statement given by the aforesaid boy Vaibhav Shelake is to be accepted, the words uttered by the applicant at Pune can hardly be the basis to reach a conclusion that he could be said to be the master mind or the main conspirator to eliminate the victim.

13. The statements on record indicate that the victim was last seen in the company of accused Nos.1 and 2 and she was in the house of accused No.3, when the doctor had to be called. The mother and the brother of the victim had reasons enough to be upset with the victim in the backdrop of the discussion that took place at Pune, a day earlier, concerning the relationship of the victim with the boy Vaibhav Shelake. They could be said to have the motive and intention to eliminate the victim, considering her conduct and her insistence on continuing with the relationship with the said boy.

14. In such circumstances, this Court is inclined to grant relief to the applicant, despite the fact that the offence in the present case is serious and a young girl has lost her life. Merely on conjectures, it would be difficult to reach a conclusion regarding *prima facie* case against the applicant. In any case, he is ready to co-operate with the investigation and hence, the present application deserves to be granted.

15. In view of the above, the application is allowed in the following terms:-

- A. In the event the applicant is arrested in connection with FIR No.0187 dated 04.04.2024 registered at Laxmipuri Police Station, District - Kolhapur, he shall be released on bail on furnishing PR Bond of Rs.50,000/- [Rupees Fifty Thousand

only] with one or two sureties in the like amount;

- B. The applicant shall remain present before the investigating officer between 10:00 a.m. and 12 noon on 12.07.2024 and 15.07.2024 and thereafter, as and when called by the investigating officer. He shall co-operate with the investigation;
- C. The applicant shall not influence the informant, witnesses or any person concerned with the case and he shall not tamper with the evidence.

16. Needless to say, violation of any of the aforesaid conditions would make the applicant liable to face proceedings for cancellation of anticipatory bail. It is also clarified that the observations made in this order are limited to the question of grant of anticipatory bail to the applicant in the present application and that the trial Court shall proceed further, without being influenced by the observations made in this order.

17. The application is disposed of.

(MANISH PITALE, J.)

Minal Parab