

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.150 OF 2024

Dr. Pawan Nyandev Patil Applicant
Versus
The State of Maharashtra Respondent

Mr. Arun Mishra, Advocate a/w. Arpita Mishra, Aniruddh More
for the Applicant.

Ms. Mahalakshmi Ganapathy, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 18th JANUARY, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.533/2023 registered at Manpada Police Station, Thane under sections 302, 201, 506(2) read with 34 of the IPC.

2. Heard Mr. Arun Mishra, learned counsel for the Applicant and Ms. Mahalakshmi Ganapathy, learned APP for the Respondent-State.

3. The FIR is lodged by one Sagar Sarkate. He has stated that his father Santosh was working with Nitin Patil on his farm-house since past three years. On 10.1.2023, Nitin Patil came to the house of the informant and told him that he should tell his father Santosh to return the gun which he had given to Santosh and that Santosh had kept that gun at some place when he was under the influence of liquor and, therefore, he was not remembering where it was kept. At about 9.45 p.m., the informant and his grand-mother went to Nitin Patil's farm house. Nitin Patil started assaulting Santosh with kick and fist blows in front of the informant and the informant's grand-mother. One Abhishek Lad also started assaulting Santosh with kick and fist blows and sticks. After some time, the informant's grand mother went to attend her work. Nitin Patil also left. The informant discussed this with his father Santosh. Both of them tried to search for that gun but it was not found. Then the informant went away at 10.45 a.m. to attend to his work. At about 1.30 p.m. the informant received a phone call from Nitin Patil. He told the informant

that Santosh had become unconscious. The informant and his grand-mother went to the farm house. He saw that his father Santosh was lying in unconscious state. He was bleeding from his mouth. On the suggestion of Nitin Patil; the informant, Abhishek and others took Santosh to Dnyandeo Hospital at Kolegaon. Nitin Patil's uncle Vijay Patil came there. The doctor examined Santosh. He allegedly asked the informant and others as to what had caused the marks on Santosh's back. At that time, Vijay Patil told the doctor that Santosh had entered into a fight under the influence of liquor. There was a cut injury on his left hand. According to the informant, there were signs of assault. The doctor examined Santosh and declared him dead. Significantly the doctor told them to conduct the postmortem. Vijay Patil asked the others to leave the room. There was some discussion between Vijay Patil and the doctor. Thereafter the dead body was given in possession of the informant. The dead body was wrapped in a cloth and dressing tapes. Nitin Patil did not allow anyone to remove the cover and the dead body was taken for cremation.

The security guard at the crematorium asked the informant to get the medical certificate showing the cause of death. Vijay Patil told something to the security guard and then the dead body was cremated. On this basis, the FIR is lodged. Apart from the allegations of assault and commission of murder in that assault, the informant had alleged that the dead body was cremated illegally. On this basis, the FIR is lodged.

4. The investigation was carried out and the charge-sheet is filed. The Applicant is apprehending his arrest on the allegations that he helped the main accused Nitin Patil in disposing of the body without disclosing the fact of suspicious death to the police. The allegations are that, the Applicant was the Doctor who had examined Santosh and had given the certificate.

5. Learned counsel for the Applicant submitted that the Applicant had merely done his duty. The certificate about declaration of death given by the Applicant clearly mentions that the cause of death was 'unknown'. The Applicant has not given any false cause of death protecting the main accused

Nitin Patil. He submitted that there was no conspiracy in commission of the main offence of the alleged murder. The only allegation, at the highest, against the applicant is under Section 201 of IPC. He submitted that the FIR itself mentions that the Applicant had told the informant and others to conduct the postmortem.

6. Learned APP opposed this application. She submitted that it was duty of the Applicant to inform the police about the suspicious death of the deceased. She submitted that the FIR mentions that there were signs of assault on the deceased and, therefore, it was all the more important for the Applicant to have informed the police. She submitted that because of the act of the Applicant now the cause of death has remained unknown.

7. I have considered these submissions. As accepted by learned APP and as is reflected from the charge-sheet, the allegations of assault are restricted to Nitin Patil. There are no allegations that before the deceased was brought to his hospital the Applicant had anything to do with the alleged

incident of assault. There is nothing to show that it was a preplanned murder in which the Applicant was involved. His alleged role started after the deceased was taken to his hospital. The FIR itself mentions that the doctor at the hospital i.e. the Applicant told the informant to conduct the postmortem examination. Therefore, it cannot be said that the Applicant helped the main accused.

8. It is also significant that the Applicant has mentioned the cause of death as 'unknown'. He has not mentioned any false cause of death. Therefore, to that extent the Applicant's role is restricted to issuing this certificate.

9. There is some substance in the submissions of learned APP that the Applicant should have informed the police. However, that by itself will not indicate the Applicant's complicity in the commission of murder.

10. At the highest, the Applicant is supposed to have committed the offence under Section 201 of IPC. The incident had taken place on 10.1.2023. More than a year has passed.

The charge-sheet is already filed against other accused. The Applicant was always available at his hospital and was taking part in his daily routine. He had never absconded. The investigating agency never thought it necessary to arrest him for interrogation.

11. In this view of the matter, after one year, in this background, the Applicant's custodial interrogation is not necessary. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.533/2023 registered at Manpada Police Station, Thane, the applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) The Applicant shall cooperate with the investigation and shall not cause interference with the evidence.
- (iii) Anticipatory Bail Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)

Digitally signed
by
PRADIPKUMAR
PRAKASHRAO
DESHMANE
Date:
2024.01.23
14:02:55
+0530

Deshmane (PS)