

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.868 OF 2024

Niklesh Prakash Patil .. Applicant
Versus
The State of Maharashtra .. Respondent

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Mr.Vinod Kashid i/b Mr.Somit Bhoite for the Applicant.
Mrs.Mahalakshmi Ganpathy, A.P.P. for the Respondent/State.

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CORAM: BHARATI DANGRE, J.
DATED : 27th MARCH, 2024

P.C:-

1. The Applicant, arrested in connection with C.R.No.I-236 of 2017 registered with Shivaji Nagar Police Station, Thane, is facing charge under Sections 302, 376(2)(g) and Section 201 read with Section 34 of the Indian Penal Code (for short, “**the IPC**”).

By the present Application, he seeks parity with co-accused-Akshay Anil Walode, who was released on bail vide order dated 22/02/2024 on the ground of long incarceration. It is the case of the Applicant that he is also incarcerated since 06/09/2017 and that itself is sufficient ground for his release.

2. I heard the learned counsel Mr.Vinod Kashid for the Applicant and Mrs.Mahalakshmi Ganapathy, A.P.P. for the State. The order passed in the case of co-accused Akshay Anil Walode dated 22/02/2024 is also placed before me.

3. The learned A.P.P. has invited my attention to the material against the present Applicant in the charge-sheet, which is filed against three accused persons; Nilesh Khobragade, Akshay Walode and Niklesh Patil, the present Applicant.

It is the case of the prosecution that accused Nilesh Khobragade is the first informant, who was resident of Nagpur and working in IT Department. The Applicant was introduced to the Complainant, as he was engaged in the work of Aadhaar Registration, Data Entry etc. somewhere in the year 2014.

Between 06/09/2017 to 08/09/2017, a conference was to be held in Mumbai and for this purpose, the Complainant was coming to Mumbai by his car and the Applicant expressed his desire to accompany him, since he was working in Mumbai.

The Complainant picked up the Applicant from Nagpur and, since, the Applicant knew driving, they decided to drive alternatively enroute to Mumbai.

The Applicant told the Complainant that his friend Ankita is also interested in reaching Mumbai and, presently, she was in Pune and she requested that she should also be allowed to accompany them. On reaching Pune, they picked up Ankita and moved ahead.

On 04/09/2017, they reached Ambernath, where one of the friend of the Applicant came on motorcycle with parcel of food and this person was co-accused Akshay, who was introduced to the Complainant and also the victim. As per the case of the prosecution, the Complainant slept in hall, whereas the victim girl, present Applicant and co-accused Akshay kept on chatting in the bed-room. The Complainant came out of his bed-room for smoking and the Applicant informed him that Ankita had left the place.

Thereafter, the Complainant took a decision to visit to Goa, as there were two days still in hand before the conference. A new bag was brought before they proceeded to Goa and as per the prosecution, on 05/09/2017, they reached Goa and booked one hotel and at that time, the Applicant disclosed the Complainant, that he is receiving phone calls that Ankita is missing and they decided to go to Mumbai and while enroute, he divulged that he had committed a mistake by killing Ankita,

after committing rape on her.

The Applicant and Akshay were taken by the Complainant to nearest police station, where FIR No.00 of 2017 was registered, which was subsequently transferred to Shivaji Nagar Police Station, Thane, as the offence was committed in the jurisdiction of Ulhasnagar.

4. During the course of investigation, since it was noticed that the Complainant was also involved, he was arraigned as an accused.

Subsequently, the Complainant and Akshay Walode came to be released on bail.

5. On perusal of the charge-sheet, which include the statement of the Complainant, it is evident that the role of the Applicant in whole episode is of an active participant. It is clear from the statement of the Complainant that it is the Applicant, who expressed his desire to take Ankita alongwith them by altering the route of journey, as they were travelling from Aurangabad to Mumbai and they went to Pune to pick up Ankita.

When they reached Ambarnath, it is the Applicant who called co-accused Akshay and he took them to a flat in

Ambernath. Ankita was left in the company of the present Applicant and Akshay, while the Complainant continued to sleep in the hall and in the morning, when he went for smoke, he was informed by the Applicant that Ankita had left.

It is the Applicant, who purchased a bag from Ulhasnagar for which the money was paid by the Complainant. As per the statement of the Complainant, when they went to Akshay's room and collected their belongings, he was asked to wait down and keep the boot of the car open. Thereafter, the Applicant alongwith Akshay placed their belonging and they moved ahead. At this time, it was revealed that Ankita was missing and the Applicant gave an extra judicial confession that he alongwith Akshay, had raped her and, since, she was threatening and demanding money, they gagged her, which resulted into her death and her body was kept in a bag, which was loaded in the boot of the car and while they enroute Goa, the bag was left on the road.

6. During investigation, statement of one Rishabh Meshram is also recorded, who is a witness to the fact that Ankita accompanied the Applicant, as they were to go to Mumbai and he dropped her near the car, which was a silver coloured Chevrolet bearing No.MH14 DT 3810 and the Applicant was

found to be in the driving seat. The Complainant, who was sitting next to him, was also introduced to him and the witness has stated that he was in contact with Ankita and even she called him and informed that they had reached the room of Akshay at Ambernath.

On similar lines is the statement of one Kunal Purchase.

The statements of these two witnesses were recorded under Section 164 of the Cr.P.C. by the Magistrate.

7. The body of the deceased Ankita is recovered from Bhutaramanahatti located at NH 4 Highway, District Belgaum, State of Karnataka, little ahead of Kolhapur.

8. The shop from where the bag was purchased by Akshay has disclosed during his 27 memorandum and the shop owner had identified Akshay, who has placed the bag in silver car, after its purchase. There is also a statement of one person on the hotel counter, who had seen the deceased in the company of the Applicant on 04/09/2017. The belonging of Ankita are also seized during investigation.

9. The Applicant was known to the deceased and it is on his say, she had accompanied the other two accused persons and the circumstantial evidence clearly established that she

disappeared from the room, when she was in the company of the Applicant and her body was recovered from the suitcase and the Applicant faced the accusations of causing her death and destroying the evidence.

The postmortem report found the body in decomposed stage, acutely infected by maggots, however, it was identified to be of woman, approximately 22 years. The report also found the hymen to be ruptured, though lower part of cervix was found to be decomposed.

10. In the light of the circumstantial evidence, the involvement of the Applicant is evident and, ultimately, he shall face the charges in the trial. But, since prima facie case is made out against him, for causing death of Ankita and for destroying the evidence, he do not deserve his liberty, despite long period of incarceration.

The Application is, therefore, rejected.

(SMT. BHARATI DANGRE, J.)