

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1079 OF 2024

Pranav Pradip Ramteke	...Applicant
vs.	
The State of Maharashtra	...Respondent

Mr. Rajendra Rathod a/w. Ms. Shabana Shah, for the Applicant.
Mr. Tanveer Khan, APP, for the Respondent/State.
Mr. P.R. Sawant, PI, Chembur police station.

CORAM : N. J. JAMADAR, J.

DATE : APRIL 16, 2024

P.C.:

1. Heard the learned counsel for the applicant and the learned APP for the State.
2. The applicant, who is arraigned in C.R. No. 227 of 2023 registered with Chembur police station for the offences punishable under sections 120-B, 302, 201, 328, 364, 346 and 347 of Indian Penal Code, 1860 seeks to be enlarged on bail.
3. The indictment against the applicant, co-accused and absconding accused runs as under:-

Rohini Kamble, the mother of Vishal Kamble (the deceased) is the sister of Pradip Ramteke, the absconding accused. Rohini Kamble had a bungalow at Chembur and also at Kolhapur. Pradip Ramteke intended to usurp those properties. A criminal conspiracy was thus hatched to eliminate the deceased and Rohini Kamble by Pradip Ramteke who is the father of the applicant and other co-

accused and absconding accused.

4. In pursuance of the said conspiracy, Munir Pathan (accused No. 2) called Vishal Kamble (the deceased) at hotel Neelkamal, Chembur on the pretext of entering into a transaction for sale of those properties. When the deceased and Rohini Kamble came thereat, they were abducted and kept in a villa at Panvel. Jyoti Waghmare (accused No. 1) administered sedative injection to the deceased and Rohini Kamble. Jyoti Waghmare (accused No. 1), Munir Pathan (accused No. 2), Raju Darvesh (accused No. 4) and Rohit Admane @ Musa Parkar (accused No.3), a cousin of the deceased, allegedly killed the deceased and dumped the body of the deceased in the State of Gujrat. Rohini Kamble was abducted and detained at various places in the States of Rajasthan, and at Goregaon in Mumbai. It is alleged that the applicant was also privy to the said conspiracy and the offences were committed with a view to usurp the properties of the deceased and Rohini Kamble.

5. Mr. Rathod, the learned counsel for the applicant, submitted that the entire case rests on circumstantial evidence. The applicant is sought to be roped in on the basis of the statements of the co-accused. It is not the case of the prosecution that the applicant had abducted the deceased and Rohini Kamble and on the basis of the suspicion expressed by the cousins of the applicant on the ground

that the father of the applicant intended to usurp the property of Rohini Kamble and the deceased, the applicant has been falsely implicated. There is no material which prima facie connects the applicant with the alleged offences.

6. In opposition to this, Mr. Khan, the learned APP, submitted that the applicant has been named as one of the confederates in the conspiracy in the disclosure statement made by the co-accused. Moreover, two witnesses namely Dipti Phansalkar and Shilpa Jekbas have named the applicant, his father Pradip Ramteke and the co-accused Rohit Admane, another cousin of the applicant, as the persons who they suspected to have abducted and killed the deceased.

7. I have carefully perused the material on record. The prosecution proposes to press into service three circumstances qua the applicant. First the disclosure statement made by the co-accused second, the statements of the witnesses, who are the relatives of both the deceased and the applicant, and, third, CDR and co-location of the applicant and the co-accused.

8. As regards the disclosure statement of the co-accused, first and foremost, it is imperative to note that a disclosure statement made by an accused is not a legal evidence against a non maker co-accused. Secondly, once the co-accused came to be arrested, the

conspiracy terminates and the statement made by the alleged co-conspirator cannot be used against the another conspirator by invoking the provisions contained in section 10 of the Evidence Act. Thirdly, even if the disclosure statements of the co-accused are taken into account, it does not appear that the applicant has been specifically named as co-conspirator.

9. In the first disclosure statement made by co-accused Rohit Admane (accused No.3) on 3rd May, 2023, it was stated that on account of instigation of Pradip Ramteke, Aruna Ramteke and the applicant, a conspiracy was hatched and offences were committed. Co-accused Raju Darvesh who made a disclosure statement on 5th May, 2023 did not name the applicant. In the second disclosure statement dated 8th May, 2023 made by co-accused Rohit Admane (accused No. 3), only Pradip Ramteke was named as an instigator. Munir Pathan (accused No. 2) in the disclosure statement dated 10th May, 2023 also named Pradip Ramteke as an instigator. Further disclosure statements of Rohit Admane (accused No. 3) and Munir Pathan (accused No. 2) also named Pradip Ramteke as conspirator and instigator.

10. Secondly, the statements of Dipti Phansalkar and Shilpa Jekbas, as is evident, are based on the suspicion they entertained as the father of the applicant had allegedly embezzled the assets of

late Vasant Kamble, the father of the deceased and thus Vasant Kamble had ousted Pradip Ramteke from their property and, therefore, Pradip Ramteke and his family members had a grudge against the deceased and Rohini Kamble and desired to usurp their properties.

11. Thirdly, the CDR sought to be pressed into service showing the exchange of calls between the applicant and Rohidas Admane (accused No. 3) are required to be appreciated in the light of the fact that the applicant and the co-accused Rohit Admane (accused No. 3) are cousins. Even the co-location of the applicant and Rohit Admane (accused No. 3) at Kolhapur, therefore, can not by itself be an incriminating circumstance.

12. In the aforesaid view of the matter, especially having regard to the nature of the circumstances sought to be arrayed against the applicant, I am persuaded to hold that a prima facie case to exercise discretion is made out.

13. I am, therefore, inclined to allow the application.

Hence, the following order.

ORDER

1] The application stands allowed.

2] The applicant Pranav Pradip Ramteke be released on bail in C.R. No. 227 of 2023 registered with Chembur police station, on

furnishing a P.R. Bond of Rs. 30,000/- with one or more sureties in the like amount.

3] The applicant shall mark his presence at Chembur police station on the first Monday of every month between 11 am to 1 pm for a period of three years or till conclusion of the trial, whichever is earlier.

4] Applicant shall not tamper with the prosecution evidence and give threat or inducement to first informant, any of the prosecution witnesses or any person acquainted with the facts of the case.

5] The applicant shall furnish his contact number and residential address to the investigating officer and shall keep him updated, in case there is any change.

6] The applicant shall regularly attend the proceedings before the jurisdictional Court.

7] By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of the entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant and the trial Court shall not be influenced by any of the observations made hereinabove.

Application disposed.

(N. J. JAMADAR, J.)