

Sayali Upasani

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

BAIL APPLICATION NO.- 1744 OF 2024

Sonu Govind Bhavar ... Applicant

Vs.

The State of Maharashtra ...Respondent

**SAYALI
DEEPAK
UPASANI**

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SAYALI DEEPAK
UPASANI

Date: 2024.04.24
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Mr. S. S. Sawalkar, with Megha A. Shelke, Manjiri Dhuri, Punam Karande, Ashwin Ghadge, Gayatri yadav, for Applicant.

Mr. R. M Pethe, APP for State/Respondent.

Mr. P. B. Patil, PSI, Shahapur Police Station, Present.

CORAM:- N. J. JAMADAR, J.

DATED:- 23rd APRIL, 2024.

PC:-

- 1) Heard the learned Counsel for the parties.
- 2) The applicant, who is arraigned in CR No. 223 of 2017 registered with Shahapur Police Station, Thane Rural, for the offences punishable under Sections 302 and 201 of the Indian Penal Code, 1860, has preferred this application to enlarge him on bail.

3) Ganpat Pardhi (the deceased) was the brother of the first informant. On 25th April, 2017, Deepa Pardhi (A1), the wife of the deceased, informed the first informant that the deceased did not return home since morning. On 27th April, 2017, a dead body was found in a field at Jarandi. The first informant identified the dead body to be that of the deceased.

4) It transpired that the applicant was in a relationship outside marriage with the Deepa Pardhi (A1), the wife of the deceased. Thus, the applicant and the co-accused committed the murder of the deceased and dumped the body of the deceased in the field with a view to destroy the evidence.

5) The learned Counsel for the applicant submitted that the entire case rests on circumstantial evidence. There is no material to indicate that the applicant was in a relationship outside of marriage with Deepa Pardhi (A1). Nor there is other circumstance which incriminates the applicant. As the applicant has been in custody since 13th April, 2017 and only three witnesses have been examined till date, the applicant deserves to be enlarged on bail.

6) The learned APP submitted that the investigation has revealed that the applicant was in constant touch with Deepa Pardhi (A1). There is

material to show that Deepa Pardhi (A1) tried to mislead the first informant and witnesses by falsely claiming that the deceased had left house in the morning. It was further submitted that the disclosure statement made by the co-accused incriminates the applicant. As the applicant was the principal character in the commission of the alleged offences, the applicant does not deserve to be enlarged on bail.

7) Evidently, the case rests on circumstantial evidence. The PM report indicates that the cause of the death was cardiac arrest. At the same time, the Autopsy Surgeon has noted 6 CLWs on the chest and shoulder of the deceased. Prima facie, the deceased died by homicidal death. The only circumstance that is sought to be pressed into service against applicant appears to be the calls exchanged between the applicant and Deepa Pardhi (A1) . There is no material to show that the applicant was either last seen in the company of the deceased or pursuant to any disclosure statement made by the applicant any fact was discovered.

8) It is trite, the disclosure statement made by an accused is not a legal evidence against non maker co-accused. The fact that the applicant has made calls to Deepa Pardhi (A1) is also compatible with the innocence of the applicant as well. In the circumstances, as the applicant has been in custody since 13th April, 2017 and it is unlikely that the trial

can be concluded within a reasonable period, I am inclined to exercise discretion in favour of the applicant.

9) Hence, the following order.

: ORDER :

- (i) The application stands allowed.
- (ii) The applicant be released on bail in CR No. 223 of 2017 registered with Shahapur Police Station, Thane Rural, for the offences punishable under Sections 302 and 201 of the Indian Penal Code, 1860, on furnishing a P.R. Bond in the sum of Rs.30,000/- with one or two sureties in the like amount, to the satisfaction of the learned trial Court.
- (iii) The applicant shall mark his presence at Shahapur Police Station, Thane Rural, on the first Monday of every month between 10.00 am to 12.00 noon for a period of two years or till conclusion of trial, whichever is earlier.
- (iv) The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant and any of the persons acquainted with the facts of the case.

(v) By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of 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.

[N. J. JAMADAR, J.]