

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL BAIL APPLICATION NO. 3139 OF 2023**

Gopichand @ Gopya Krushna Ghule

... Applicant

Versus

The State of Maharashtra

... Respondent

.....

Mr. Raju Suryawanshi, Advocate for the Applicant.

Mr. Kiran C. Shinde, APP for Respondent-State.

CORAM : SHIVKUMAR DIGE, J.**DATE : 18th APRIL, 2024.****P.C. :**

1. By this application, applicant is seeking bail in C.R.No.I-293 of 2019 registered with Khadakpada Police Station, Kalyan, for the offence punishable under Sections 302, 394, 201, 120(B) read with Section 34 of Indian Penal Code (for short "IPC").

2. It is prosecution's case that deceased Harshad Dugad, applicant and co-accused i.e. child in conflict with law were working at one place. The deceased Harshad was not allowing applicant and co-accused to get money of their work. The deceased was not allowing them to meet the contractor Uddhavji Bhoir, therefore both the applicant along with other co-accused hatched conspiracy, they took deceased Harshad towards dumping ground behind creek in the darkness and they snatched his golden chain from the neck. There was scuffled between them and in that

scuffle applicant and other co-accused killed the Harshad by drowning him in pond water.

3. It is contention of learned counsel for the applicant that prosecution's case is based on circumstantial evidence. Since last four years and six months applicant is behind bar, yet charged have not been framed. There is no recovery at the instance of the applicant, charge-sheet has been filed and investigation is completed, hence requested to allow the application.

4. It is contention of learned APP that there was dispute between the applicant and deceased, due to that dispute applicant and co-accused murdered the deceased. The deceased had gone on the motorcycle of the applicant, the deceased was last seen with the applicant. There is *prima facie* case against the applicant if applicant is released on bail, he may threaten the prosecution witnesses, hence requested to reject the application.

5. I have heard both the learned counsel. The prosecution's case is based on circumstantial evidence. There is no recovery at the instance of applicant. The applicant is behind the bar more than four years and six months, yet charges have not been framed. The investigation is completed and chargesheet has been filed, hence further detention of the applicant is not required.

6. In view of above, I pass following Order.

ORDER

- i. The applicant be enlarged on bail in C.R.No.I-293 of 2019 registered with Khadakpada Police Station, Kalyan, on executing P. R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.
- ii. The applicant shall attend the concerned police station once in a month i.e. on first Monday between 11.00 a.m. to 3.00 p.m. till framing of charge.
- iii. The applicant shall inform his latest place of residence and mobile number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Investigating Officer.
- iv. The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

7. The Application is allowed in the aforesaid terms and is accordingly disposed off.

8. It is made clear that the above observations are made only for the purpose of granting bail and the Trial Court shall decide the case on its own merits in accordance with law and uninfluenced by the observations made in this order.

9. All concerned to act on the authenticated copy of this order.

(SHIVKUMAR DIGE, J.)

SONALI
SATISH
KILAJE

Digitally signed
by SONALI
SATISH KILAJE
Date:
2024.04.22
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