

UDAY
SHIVAJI
JAGTAP
Digitally
signed by
UDAY
SHIVAJI
JAGTAP
Date:
2024.03.19
15:52:47
+0530

Uday S. Jagtap

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

CRIMINAL BAIL APPLICATION NO. 3503 OF 2022

Pruthviraj @ Raj Tularam Chauhan .. Applicant

Vs.

The State of Maharashtra .. Respondent

.....

Mr. Anand Pande a/w Pawan Singh for the applicant
Ms. Rashmi S. Tendulkar, APP for the respondent – State
Mr. A.R. Rajame, Sr. P.I. Protection Branch, Mumbai present

.....

CORAM : PRITHVIRAJ K. CHAVAN, J.

DATED : 18th MARCH, 2024.

P.C.

1. By this application, the applicant seeks his release on bail who is being prosecuted by Malwani Police Station in connection with C.R. No. 8 of 2021 for the offences punishable under Sections 302 r/w 120(B) of the Indian Penal Code for allegedly committing murder of one Ashok Yadav.

2. Briefly stated, the prosecution story goes like this.

3. Co-brother of the deceased namely Brijesh Ravindranath

Yadav (first informant) was residing in the neighbourhood of the deceased Ashok Yadav. On 5th January 2021 he returned home from work around mid-night. He noticed the house of the deceased locked and, therefore, he called him on his mobile number. The deceased did not pick up his phone. The first informant, however, went to his room and after dinner went to the bed. On the following morning, when he was about to go to his work in his car, he found some police personnel in civil dress enquiring with the passersby by showing a photograph. The first informant had also, out of curiosity saw the photograph which was of his co-brother deceased Ashok Yadav. The police personnel took him to the place where the dead body of the deceased – Ashok Yadav was lying in a pool of blood with clothes also stained with blood.

4. The Investigating Officer investigated into the crime. He recorded statements of the witnesses. The dead body of the deceased was sent for autopsy. Autopsy report reveals the cause of death due to haemorrhage and shock due to neck cut injury. The Viscera of the deceased was preserved for forwarding it to the Forensic Science Laboratory.

5. The Investigating Officer, during investigation recorded memorandum statement of the accused on 6th January 2021 pursuant to which, a Tecno company's mobile handset and a wallet along with BEST pass were recovered at his instance. At the same time, the Investigating Officer had also recovered clothes of the deceased as well as a knife admeasuring 22 cms. long with a blade admeasuring 12 cms. and width 2 cm. with some blood stains. During investigation, the Investigating Officer revealed that the applicant had illicit relationship with the wife of the deceased and, therefore, wife of the deceased and the applicant conspired to kill the deceased.

6. This Court by an order dated 21st October 2021 granted bail to Sheela A. Yadav, widow of the deceased and co-accused only on the ground that neither any weapon nor any incriminating material was seized from her possession and that the entire case is based on circumstantial evidence.

7. I heard Mr. Pande, learned Counsel for the applicant and Mrs. Tendulkar, learned APP.

8. With the assistance of the learned Counsel for the applicant

and the learned APP, I have gone through the record of the case.

9. At the outset, none of the prosecution witnesses whispered anything as regards alleged illicit relationship between the wife of the deceased and the applicant. *Prima facie*, there seems to be no motive.

10. Learned APP has invited my attention to the statement of one of the neighbours of the deceased namely Govindkumar Vishwakarma Sitlaprasad Gupta who appears to have stated before the police that the applicant used to visit the house of the deceased frequently and, therefore, there was quarrel between the deceased and his wife. He had not even remotely indicated that the deceased had a suspicion *qua* his wife (co-accused) as regards her character.

11. In so far as report of Forensic Science Laboratory is concerned, the examination report in respect of the Nail clipping of the applicant is negative. The blood stains clothes seized from the spot of incident as well as other material reveal that the grouping of the blood could not be made out and is shown to be 'Inconclusive'. Even the blood group of the deceased could not be ascertained due to haemolysed and, therefore, that also cannot be ascertained by the

Forensic Science Laboratory.

12. In so far as the clothes of the deceased as well as the applicant are concerned, the FSL returned its finding that blood grouping in respect of the aforesaid articles are also inconclusive. Merely because there is a discovery under Section 27 of the Evidence Act would not *ipso facto* mean that applicant was involved in the murder of the deceased.

13. Learned APP is at pains to invite my attention to the statement of a '*counter service boy*' namely Vinodkumar S. Sahu working in a wine-shop of one Ravindra Shyam Shetty. He stated that on 3rd January 2021 i.e. about 42 hours before the incident in question, the applicant had purchased a bottle of Mcdonald No.1 whisky from his shop, which is evident from the CCTV footage. However, that itself is not sufficient to hold that the applicant had consumed liquor with the deceased which he had purchased from the liquor shop.

14. Learned Counsel for the applicant submits that ever since his arrest on 5th January 2021, the applicant is languishing in jail without charge being framed against him by the trial Court. There

is no chance of concluding the trial in near future. There is nothing on record to show that the conspiracy was hatched by the wife of the deceased and the applicant to eliminate the deceased. I agree with the arguments of the learned Counsel.

15. Considering the aforesaid facts and the material on record, *prima facie* a case has been made out to grant bail to the applicant. Consequently, the following order is expedient.

ORDER

- (i) The application is allowed.
- (ii) The applicant be released on executing a P.R. bond in the sum of Rs.20,000/- with one or two sureties in the like amount to the satisfaction of the trial Court.
- (iii) The applicant shall attend the concerned police station on first day of each month until framing of the charge. After framing the charge, the applicant shall attend the trial Court scrupulously on each date.
- (iv) The applicant shall furnish his contact details and

residential address to the concerned police station as well as to the trial Court and shall inform in case of any change.

(v) The applicant shall not tamper with the evidence or influence the complainant, prosecution witnesses or persons concerned with the case.

(vi) In case of breach of any of the conditions, the prosecution is at liberty to seek cancellation of his bail.

16. The application stands disposed of in the above terms.

(PRITHVIRAJ K. CHAVAN, J.)