IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2052 OF 2024

Vijay Ganpat Patil ..Applicant
Versus
The State of Maharashtra ..Respondent

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Mr. R. D. Suryawanshi a/w. Rohan Hule for Applicant.
Mr. S. H. Yadav, APP for State/Respondent.
Mr. Ranjeet Patil i/b. Nilesh Mandavkar for Intervenor.

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CORAM : SARANG V. KOTWAL, J.
DATE : 14 JUNE 2024

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.533 of 2023 registered at Manpada Police Station, District Thane, on 19.07.2023, under sections 302, 201, 506(II) r/w. 34 of the Indian Penal Code.

2. Heard Mr. Suryawanshi, learned counsel for the applicant, Mr. Yadav, learned APP for the State and Mr. Ranjeet Patil, learned counsel for the Intervenor.

3. The F.I.R. was lodged by one Sagar Sarkate on 19.07.2023. His father Santosh was working with one Nitin Patil and in particular was working at Nitin Patil's farmhouse and used

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to stay there. On 10.01.2023, at 9:30a.m. Nitin Patil came to the informant's house and told him to tell the informant's father Santosh to return Nitin's gun, otherwise his people would beat him. The informant asked his mother about the whereabouts of his father. He was told that Santosh had not come home for two days. The informant was told by his grand mother that, Santosh was not remembering where he had kept Nitin Patil's gun as Santosh was under the influence of liquor. The informant and his grand mother Rama Sarkate went to the farmhouse of Nitin Patil at 9:45a.m. At that time, Nitin Patil started giving kicks and fist blows to the informant's father who was also there. One Abhishek @ Bunny started beating Santosh with stick and kicks. On the repeated request of the informant's grand mother they stopped beating. The informant's grand mother went to attend her work. The informant asked his father Santosh regarding that gun. Santosh told him that Nitin Patil had given his gun to him, but since Santosh was under influence of liquor, he did not remember where he had kept that gun. The informant had to attend his work, therefore, he left that place at around 10:45a.m.

4. At about 1.30p.m. the informant received the phone call from Nitin Patil who was told that Santosh had become unconscious. The informant rushed to Nitin Patil's farmhouse. He saw that, his father was lying unconscious and there was bleeding from his mouth. At his request, Nitin Patil called somebody and then the informant and others took the informant's father to Dnyandeo Hospital at Kolegaon. It is mentioned in the F.I.R. that, at that time, the present applicant, who was Nitin Patil's uncle, came there. When the Doctor made enquiries about the cause of injuries, at that time, the applicant told the Doctor that Santosh had fallen under the influence of liquor and had suffered injuries. The doctor declared Santosh dead and told them to conduct the postmortem. It is alleged in the F.I.R. that, since the applicant was knowing the Doctor, the applicant asked the informant and others to go out of the room. After that, there was some discussion between the applicant and the Doctor. After that, the applicant met the informant and his relatives and threatened them. It is alleged that, Nitin Patil and the present applicant caused the dead body to be cremated in presence of the informant and other relatives. It is

specifically alleged that, both of them issued threats to the informant and his family. On this basis the F.I.R. was lodged. The applicant was arrested on 19.07.2023. The investigation was carried and the chargesheet was already filed.

5. Learned counsel for the applicant submitted that the supplementary statement of the informant showing that on 10.01.2023 the Doctor had already examined the deceased and thereafter Nitin Patil had called the applicant at around 3:00p.m.and had arranged for telephonic conversation between the applicant and the Doctor. This shows that the applicant had come on the scene much belatedly and he had not taken any part prior to that. The CCTV footage of the hospital would show that the applicant had reached the Hospital in the evening. There is delay of about 6 months in lodging the F.I.R. He submitted that the allegations against the applicant at the highest would attract the provisions of Section 201 of the I.P.C. and not that of Section 302 of the I.P.C. The investigation is already over and the applicant is in custody since 19.07.2023. Therefore, he deserves to be released on bail. He submitted that the applicant is ready and willing to abide

by the conditions imposed by the Court including the condition of staying outside the jurisdiction of the Manpada police station.

6. Learned APP, as well as, learned counsel for the first informant opposed these submissions. According to them, since the applicant had threatened the informant and his family, his role is made out. There is possibility of tampering with the evidence and, therefore, bail should not be granted to the applicant.

7. I have considered these submissions. Apart from the statement of the first informant, who was an eye witness to the beating caused to the deceased, there are statements of the other eye witnesses namely Sitaram Shahu and the mother of the deceased Rama Sarkate. Both of them have stated about the assault on the deceased in the morning. All these eye witnesses have categorically stated that, assault was caused by Nitin Patil and Abhishek @ Bunny. It is not the prosecution case that the applicant was even present when the assault was took place and when Santosh was taken to the hospital in the afternoon. The allegations against the applicant are about issuing threats and about causing cremation of the dead body without affording any

opportunity of conducting postmortem or not informing the police. There are statements of the daughter and son in law of the deceased who have stated that the applicant had threatened them. Apart from this evidence, there are statements of the villagers namely Amit, Raju etc. But they have stated about the applicant's presence at the time of cremation.

8. This all shows that the applicant had no concern with the actual assault caused on the deceased. It is not even the case of the prosecution that, he has taken any part or had instigated any accused for committing the offence of assault on the deceased which had ultimately resulted in his death. The assault was caused at the farmhouse and there was no meeting of minds with the other accused, as far as the applicant is concerned. He is not actually concerned with the actual assault. The serious allegations against the applicant are of issuing threats to the informant and his family and taking steps to dispose of the dead body. These allegations are different from the allegations of actual commission of murder. Therefore, to that extent, his role can be separated from the main accused who have caused assault resulting in death of

the deceased. The apprehension of the first informant and his family about threats issued by the applicant and the possibility of tampering with the evidence and witnesses can be taken care of by imposing suitable conditions. Thus, the applicant can be released on bail on certain conditions.

9. Hence, the following order :

ORDER

i) In connection with C.R.No.533 of 2023 registered at Manpada Police Station, District Thane, the applicant is directed to be released on bail on his executing P. R. bond in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) with one or two sureties in the like amount.

ii) The Applicant shall not enter the jurisdiction of the Manpada police station for a period of six months from today.

iii) The Applicant shall not tamper with the evidence and shall not give threats to any of the witnesses.

iv) The Application is disposed of.

(SARANG V. KOTWAL, J.)