

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2720 OF 2024

Madhuri Manohar Gurav

...Applicant

vs.

The State of Maharashtra

...Respondent

Mr. Taraq Sayyed a/w. Mr. Onkar Bajaj i/b. Ms. Sana Khan, for the Applicant.

Mr. H.J. Dedhia, APP, for the Respondent/State.

Mr. Rahul Garad, PSI, Rabale, MIDC police station.

CORAM : N. J. JAMADAR, J.

DATE : OCTOBER 07, 2024

P.C.:

1. The applicant, who is arraigned in Session Case No. 174 of 2018 arising out of C.R. No. 135 of 2017 registered with Rabale MIDC police station for the offence punishable under sections 120-B, 302 and 201 of Indian Penal Code, 1860 (the Penal Code) has preferred this application for bail.

2. This is the second application for bail before this Court. First Bail Application No. 3931 of 2023 came to be dismissed as withdrawn by an order dated 22nd January, 2024. The Court was then informed that the trial had commenced and three witnesses were examined. As the applicant has been in custody since 13th May, 2017, the learned Sessions Judge seized with Session Case No. 174 of 2018 was requested to conclude the trial as expeditiously as possible and preferably within a period of six months from the date

of communication of the said order. Liberty was granted to the applicant to revive the prayer for bail in the event the trial was not concluded within the said period. Availing the said liberty, the applicant has again preferred this application for bail.

3. The prosecution case runs as under:-

The deceased and Siddhesh Gurav (accused No. 3) were in a relationship. However, Manohar Gurav (accused No. 1) and the applicant (accused No. 4), the parents of Siddhesh Gurav (accused No. 3), did not approve the said relationship. Eventually, after a lot of persuasion Siddhesh Gurav (accused No. 3) solemnized marriage with the deceased. Yet, the applicant, Manohar Gurav (accused No. 1) and Siddhesh Gurav (accused No. 3) were not happy with the marital bond. They wished to get rid of the deceased. A conspiracy was thus hatched to eliminate the deceased. Manohar Gurav (accused No. 1), Siddhesh Gurav (accused No. 3) and the applicant (accused No. 4) thus hired Durgeshkumar Patwa (accused No. 2) and Vishal Soni (accused No. 5). Manohar Gurav (accused No. 1), Siddhesh Gurav (accused No. 3) and the applicant (accused No. 4) gave a contract to Durgeshkumar Patwa (accused No. 2) and Vishal Soni (accused No. 5), to kill the deceased. An amount of Rs. 1,00,000/- was agreed to be paid. An advance of Rs. 40,000/- was paid.

4. On 14th May, 2017 at about 11.30 pm while the deceased was asleep at her matrimonial home, Durgeshkumar Patwa (accused No. 2) smothered the deceased. Manohar Gurav (accused No. 1), Siddhesh Gurav (accused No. 3) and the applicant (accused No. 4) restrained the deceased and the deceased was eventually strangulated. Thereafter, Durgeshkumar Patwa (accused No. 2) cut the deceased into three pieces and with the assistance of Vishal Soni (accused No. 5) one part of the body of the deceased thrown at Rabale-MIDC and another at Ambernath- Badlapur Pipe Line Road and the head was thrown near village Vasind, Mumbai-Nashik Road.

5. At the outset, Mr. Dedhia, the learned APP submitted that the prosecution has examined more than 10 witnesses. Therefore, at this stage, the prayer for bail may not be entertained as the trial is likely to be concluded within a period of few months.

6. Mr. Sayyed, learned counsel for the applicant, submitted that the applicant has been in custody since seven and half years. Therefore, the prayer of the applicant for bail be considered on the merits of the matter. Mr. Sayyed submitted that the prosecution case rests on circumstantial evidence. Undoubtedly, the allegations are of grave and the offences have allegedly been committed in a diabolical manner, yet, the material pressed into service against the applicant, deserves to be evaluated while appreciating the prayer

for bail.

7. Mr. Sayyed submitted that, the only evidence against the applicant is that of the discovery allegedly made by the applicant under section 27 of the Evidence Act leading to recovery of the clothes which the applicant and her son Siddhesh (accused No. 3) wore at the time of occurrence. It was submitted that there is no material to establish the nexus between the recovery of the said clothes and the alleged offence. There is no eye witness to the alleged occurrence. The prosecution primarily banks upon discoveries made by the applicant and the co-accused. In these circumstances, having regard to the fact that the applicant has been in custody for seven and half years and the applicant is a woman, the applicant deserves the exercise of discretion. Mr. Sayyed further urged that though the trial has commenced, it is unlikely that the trial can be concluded within a reasonable period as the prosecution has cited more than fifty witnesses.

8. Mr. Dedhia, learned APP, stoutly resisted the prayer for bail. It was submitted that the incident occurred in the four walls of the house of the applicant. Therefore, the applicant cannot be permitted to urge that there is no eye witnesses to the occurrence. The allegations are of grave nature. It was a case of contract killing. With a view to destroy the evidence of the crime, the dead body of

the deceased was cut into pieces and thrown at different places. The applicant being an inhabitant of the house where the incident occurred and having played a role in the killing of the deceased, as is evident from her disclosure statement, can not be permitted to exculpate herself by asserting that there is no material to demonstrate the exact role played by the applicant.

9. I have perused the report under section 173 of the Code of Criminal Procedure, 1973 and the documents annexed with it. The material on record indicates that the deceased was killed in pursuance of a conspiracy. It was a case of contract killing. The manner in which, after the deceased was smothered to death by Durgeshkumar Patwa (accused No. 2), to whom the contract to kill the deceased was allegedly given, the body of the deceased was cut into pieces and thrown at far flung areas underscores the diabolical nature of the crime.

10. I find substance in the submission of Mr. Dedhia, learned APP, that since the offence was committed in the four walls of the house of the applicant, and the parts of the body of the deceased were disposed of at far off places, the applicant and the inhabitants of the house can not feign ignorance, and do owe an explanation as to the circumstances in which the deceased met the homicidal death. There is material to indicate that an effort was made to mislead

sister of the deceased who made inquiries with the applicant and her family members. An effort was also made to misdirect the police by informing that on 5th May, 2017 the deceased had left home on the pretext that she had to appear for an interview and did not return.

11. It is true the prosecution primarily banks upon the discoveries made by the accused. However, the facts that it was a case of hiring Durgeshkumar Patwa (accused No. 2) and Vishal Soni (accused No. 5) to kill the deceased and after the deceased was killed in the four walls of the house of the applicant, the parts of the body were allegedly cut into pieces in the house of the applicant and, thereafter, those parts were thrown at different places, prima facie, indicate grave culpability.

12. It is true the applicant has been in custody for seven and half years. Nonetheless, the Court cannot loose sight of the fact that the learned Session Judge has recorded that the trial could not proceed for want of co-operation from the accused. The Roznama of the Sessions Case No. 174 of 2008 lends heft to the submission of learned APP that the trial could not be completed for want of cooperation from the accused. It seems that the learned Sessions Judge made earnest efforts to conclude the trial. The accused did not render requisite co-operation. The learned Judge was

constrained to record the said fact in the Roznama. In any event, more than ten witnesses have been examined. The learned Session Judge will undoubtedly make an endeavour to conclude the trial expeditiously.

13. In the aforesaid view of the matter, I am not inclined to exercise the discretion in favour of the applicant.

Hence, the following order.

ORDER

- 1] The application stands rejected.
- 2] The learned Sessions Judge is requested to make an endeavour to conclude the trial as expeditiously as possible.
- 3] All the parties shall render necessary cooperation to the learned Sessions Judge for the expeditious conclusion of the trial.
- 4] 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.)