



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (BA) NO. 227 OF 2024

Dharmendra Ravishankar @ Rabbu Yadav V/s State of Maharashtra

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. Sunil Manohar, Senior Counsel with Mr. Prakash S. Jaiswal, counsel
for applicant.

Mr. D.V. Chavhan, Public Prosecutor with Mr. U.R. Phasate, APP for
non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

CLOSE FOR ORDER: 04/04/2024.

DATE OF DECISION: 10/04/2024

1. The applicant came to be arrested on 19/08/2023, in connection with Crime No. 275/2023 registered with Police Station Mankapur, District Nagpur for the offence punishable under section 364, 302, 201, 120(b), 506, 504, read with Section 34 of the Indian Penal Code, 1860.

2. The accusation against the present applicant is on the basis of report lodged by the mother of the deceased against the co-accused Amit Sahu. As per the allegation, the informant's daughter victim had gone missing in the intervening night on 01/08/2023 and 02/08/2023. After missing, the FIR was filed. During the investigation, it was revealed that the victim was running Ashirwad Dhaba at Katangi Jabalpur in partnership with the co-accused Amit Shahu. The victim invested a huge amount and also gave her golden chain of 27 grams to the co-accused. On 01/08/2023,

in the night, when the victim demanded her golden chain and the amount there was a quarrel between the co-accused and the victim on the phone. The co-accused called her immediately to Jabalpur where he resides. The victim travelled at Jabalpur by Bus and informed her brother– Imran that she was at the house of the co-accused. Thereafter, she had not received any call and her mobile phone was switched on 02/08/2023. The accused No.1 replied to the phone calls of the informant about his dispute with the victim. During the investigation, it was found that the co-accused had thrashed the head of the victim with a metal base-ball bat and killed her. He hatched the conspiracy with the co-accused including the present applicant and disposed of the dead body of the victim along with incriminating articles.

3. As per the contention of the present applicant, the only role attributed to him is that after the commission of the crime by the co-accused, he handed over his mobile phones as well as the mobile phones of the victim. The applicant handed over the mobile phones of the victim to the other co-accused Kamlesh Sahu and the mobile phones of the co-accused Amit Sahu were recovered from him. Thus, the only allegation against the applicant is that he attempted to destroy the evidence to screen the co-accused from the offence committed by him. It is further contention of the applicant that the co-accused Kamlesh Patel is already been released on bail therefore, the ground of parity is also available to the present applicant.

4. Heard learned Senior Counsel Shri Sunil Manohar for the applicant. He submitted that from the entire investigation papers, except handing over the mobile phones of the co-accused Amit Sahu to the present applicant and the present applicant has handed over two mobile phones of the deceased to Kamlesh Patel and two mobile phones of the co-accused Amit Sahu are seized from the present applicant. No other role is attributed. He invited my attention towards the memorandum statement of the present applicant at whose instance, the two mobile phones of the accused Amit Sahu are seized.

5. He further submitted that the memorandum statement of the co-accused Amit Sahu, also disclosed that he had handed over the said mobile phones to the present applicant. Except this act, no other role is attributed to the present applicant. During his house search also, except the mobile phone, nothing is recovered. Now investigation is completed and charge-sheet is filed, the co-accused Kamlesh Sahu who played the similar role is already released on bail. Thus, on the ground of parity also, the present applicant to be released on bail.

6. The said application is strongly opposed by the State on the ground that the applicant was involved in a conspiracy to eliminate the deceased, and in furtherance of the said conspiracy, the co-accused Amit Sahu called the deceased at Jabalpur and committed her murder. He has handed over the mobile phone of the victim and his mobile phones to the present applicant, the present applicant handed

over the mobile phones of the deceased to the other co-accused Kamlesh Patel, and the mobile phone of Amit Sahu are seized at the instance of the present applicant. Considering the manner in which, the deceased was eliminated the application for grant of bail deserves to be rejected.

7. Having heard learned Senior Counsel for the applicant and learned APP for the State, perused the investigation papers. Admittedly, the name of the applicant is not mentioned in the F.I.R., it is lodged against the co-accused. During the investigation, the investigating officer has recorded the memorandum statement of the co-accused Amit Sahu. From which, it revealed to the investigating agency that two mobile phones of the co-accused and two mobile phones of the deceased were handed over by him to the present applicant. Thereafter, the house search of the present applicant was carried out. During which, the two mobile phones of the co-accused Amit Sahu are seized at the instance of the present applicant. As far as the mobile phone of the deceased is concerned, the same is handed over by the present applicant to the other co-accused Kamlesh Patel. The said mobile phones were seized from the said Kamlesh Patel. The said Kamlesh Patel has already been released on bail by the learned trial Court. Observing that, except the seizure of the mobile phone of the deceased, no other role is attributed to him, in view of that he was released on bail.

8. Moreover, the C.D.R. reports are also placed on record, which shows that there is a communication between the present applicant and other co-accused Rabbu Yadav. In

fact, the present applicant and Rabbu Yadav are father and sons. Therefore, communication between them cannot be incriminating evidence to connect the present applicant with the actual incident of murder. Though, learned APP submitted that the present applicant was part of the conspiracy, which was hatched by the co-accused and in pursuance of the said conspiracy, the deceased was eliminated, but during the investigation, no material was collected to show the involvement of the present applicant in the criminal conspiracy. It is true that direct evidence would not be available to show the involvement of the conspiracy. However, some material is required to show the involvement of the present applicant in the conspiracy.

9. Thus, considering the role attributed to the present applicant is only under Section 201 of the Indian Penal Code, 1860, which is a bailable offence. As far as the ground of parity is concerned, which is available in the present case as the co-accused Kamlesh Patel to whom similar role is attributed. Thus considering the role attributed to the present applicant, which is only to the extent of handing over of the mobile phone of the co-accused Amit Sahu to the present applicant and the present applicant has handed over two mobile phones to the co-accused Kamlesh Patel. Now the investigation is completed and charge-sheet is filed, there is no material to connect the present applicant, as far as the allegation of the conspiracy is concerned. In view of the above facts and circumstances, the application deserves to be allowed. Accordingly, I proceed to pass the following order:

- a] The criminal application is **allowed**.
- b] In connection with Crime No. 275/2023 registered with Police Station Mankapur, District Nagpur for the offence punishable under Sections 364, 302, 201, 120(b), 506, 504, read with Section 34 of the Indian Penal Code, 1860, the applicant – **Dharmendra Ravishankar @ Rabbu Yadav**, shall be released on bail, on executing P.R. Bond of Rs. 50,000/- with one solvent surety in the like amount.
- c] The applicant shall attend the concerned Police Station on 1st Saturday of every month and the Police Station Officer shall record his presence.
- d] The applicant shall not leave the jurisdiction of Nagpur City without prior permission of the District Court, Nagpur.
- e] The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.

The criminal application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]