



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

CRIMINAL APPLICATION (BA) NO. 850 OF 2024

Manish English Bhosale Vs 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. A.M Jaltare, counsel for applicant.

Mrs. Kavita Bhondge, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATE : 14/10/2024.

1. The applicant came to be arrested on 14/01/2024, in connection with Crime No. 663/2022 registered with Police Station Telegaon, District Wardha for the offence punishable under Sections 302, 201, 120(B) read with Section 34 of the Indian Penal Code, 1860.

2. On 10/12/2022, the informant Bhimrao Ramesh Rao Shingare has lodged the FIR that on 10/12/2022, when he had been to the Satyagrahi Ghat for collecting the firewood, at the relevant time, he saw the dead body of a woman aged about 20 to 40 years and immediately informed the police. On the basis of which, the crime was registered against the unknown person. During the investigation, it was revealed that the dead body was of one Jyotsana wife of the present applicant. It further revealed that on 27/11/2022, the deceased had gone to one marriage of Dhiraj Pawar at Vadali Camp Amravati. The accused No. 2 Pravin Pawar was also present on the marriage, and after some time, the deceased was seen accompanying with accused No. 2 Pravin Pawar,

and thereafter, she did not return home, and after 4 to 5 days her dead body was found. The identity of the deceased was revealed. The applicant, who is the husband of the deceased Jyotsana, was not residing together. There were frequent quarrels between them, and the relations were restrained therefore, she was residing along with her parents. It further revealed that the co-accused, Pravin Pawar, took the deceased with him, and thereafter she went along with the present applicant, and the present applicant has eliminated her by assaulting her, and subsequently, her dead body was burnt. On the basis of the said investigation, the applicant was arraigned as an accused.

3. Heard learned counsel for the applicant who submitted that the entire case is based on circumstantial evidence, except the recovery of a button from the spot of incident of a pink color and the cloth of the present applicant, i.e. shirt, which is also of a pink color. There is no other circumstance to connect the present applicant.

He submitted that, as far as the evidence collected during the investigation is concerned, the deceased was lastly seen with the co-accused. There is no material to show that, at any point of time, the present applicant joined their company, and thereafter, they both eliminated the deceased. Thus, except for the circumstances that the shirt button of the present applicant was allegedly found at the spot of the incident, there is absolutely no material to connect the present applicant with the alleged offence.

He submitted that, when the case is based on the circumstantial evidence, the prosecution has to establish the chain of the circumstances, and if any chain is missing, the prosecution case becomes doubtful. In the light of the above well settled proposition of law. One circumstance of the finding of the button i.e. the shirt of the present applicant is not sufficient to connect him with the alleged offence. As far as the statement of the present applicant or the co-accused is concerned, which is not admissible in the evidence. Besides that, the investigating agency also collected the CDR report. The CDR Report is also not helpful to the prosecution, as the location of the present applicant was shown to Badnera, Amravati, and not at the spot of the incident. Thus, entire investigation papers are insufficient to show the connection of the present applicant with the alleged offence. Merely because there was a previous dispute between the deceased and the present applicant, who are the husband and wife, is implicated in the alleged offence. Considering the nature of the evidence, further incarceration of the present applicant is not required. In view of that, he be released on bail.

4. The learned APP strongly opposed the said application and submitted that during the investigation it revealed that the co-accused, Pravin Pawar, who is the retaliative of the present applicant, took the victim along with him, and thereafter the custody of the deceased was handed over to the present applicant. The present applicant took her along with him at an isolated place i.e. Satyagrahi Ghat, thereafter eliminated her, and also attempted to screen

himself from the punishment by causing the disappearance of the evidence. She submitted that, during the investigation, the shirt of the present accused was seized by the investigating agency, and on that shirt, two buttons were missing. One button is found on the spot of the incident. Thus, there is material to connect with the alleged offence. Considering the previous enmity between the present applicant and the deceased, the shirt button of the applicant was found at the spot of the incident. The place of the incident is discovered at the instance of the present applicant. Considering all these aspects, the application deserves to be rejected.

5. After hearing learned counsel for the applicant and learned APP for the state, perused the investigation papers. As far as the discovery of the place of the incident is concerned, which was already known to the investigating agency, a dead body was found at the said place, and the said place was shown by the informant, Bhimrao Ramesh Rao Shinde. The extensive investigation was carried out by the investigating agency. However, except the statement of the co-accused, there is no other material to connect the present applicant to show that the deceased went along with the present applicant. During the investigation, except the finding of button at the spot of the incident, which was allegedly the shirt button of the present applicant, he is implicated in the alleged offence. On perusal of the spot panchanama, it reveals that only one pink color button was found at the spot of incident, whereas at the seizure of the

shirt of the present applicant, there were two shirt buttons were missing. Moreover, in seizure panchanama, nowhere it mentioned that the button, which was on the shirt, was of a pink color. The investigating agency also placed reliance on the CDR report, but the CDR report is also not helpful to prosecution, as the location of the present applicant is shown as Badnera, Amravati, and not at the spot of incident. Moreover, there is a long gap between the last seen of the deceased and the finding of the dead body; therefore, interference of any third persons cannot be ruled out. Considering the nature of the evidence and considering the fact that now the investigation is completed and charge-sheet is filed, the applicant has made out a case for grant of bail. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass the following order:

- a] The applicant - ***Manish s/o English Bhosale*** shall be released on bail, in connection with Crime No. 663/2022 registered with Police Station Talegaon, District Wardha for the offence punishable under Sections 302, 201, 120(B) read with Section 34 of the Indian Penal Code, 1860, on executing P.R. Bond of Rs. 50,000/- with one solvent surety in the like amount.
- b] The applicant shall not enter into the vicinity of village Talegaon, District Wardha till the culmination of the trial.

- c] The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case either physically or through any electronic media.
- d] The applicant shall attend the concerned police station twice in a month on 1st and 15th of every month between 10.00 a.m. to 01.00 p.m. and investigating officer shall record his presence.
- e] The applicant shall attend the proceedings before the Special Court without seeking any exemption unless there are exceptional circumstances.
- f] Record and Proceedings be sent back to the concerned Court.

The criminal application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]