

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 1179 OF 2024

Jayesh Bhaskar Pharde

.. Applicant

Versus

The State of Maharashtra

.. Respondent

-
- Mr. Umar Kazi (through VC) a/w Ms. Sonia Santis for Applicant
 - Ms. Rajeshree V. Newton, APP for State
-

CORAM : MILIND N. JADHAV, J.

DATE : MARCH 3, 2025

P. C.:

1. Heard Mr. Kazi, learned Advocate for Applicant and Ms. Newton, learned APP for State.

2. Applicant - accused has filed the present Application for regular bail under Section 439 of the Code of Criminal Procedure, 1973 (for short, "**Cr.P.C.**") in connection with Crime No. I 205/2023 registered with Shahapur Police Station, Thane for the offences punishable under Sections 302, 201, 120-B r/w 34 of the Indian Penal Code, 1860 (for short "**IPC**") along with Sections 9, 39(1)(a), 39(1)(h)), 49, 51(1) & 51(1)(a) of the Wildlife (Protection) Act, 1972.

3. There are total 6 accused in the crime. Except accused No. 6 - Ramesh More, all other accused have been arrested. Accused No. 4 Narayan Bhoir is the rickshaw driver of the rickshaw belonging to one of the co-accused who is enlarged on bail by Sessions Court.

4. Perusal of the chargesheet appended at page No. 27 etches out the role of accused persons. Briefly stated it is seen that on the day of the incident, absconding accused Ramesh More along with accused Arun Farde, Somnath Jadhav, Ganesh Khandagale and Narayan Bhoir were with the deceased victim - Gopal Naidu. Statement of the witnesses which are recorded are consistent in respect of the fact that on the date of the incident i.e. on 03.06.2023, the aforesaid accused along with the deceased victim had a long drinking session pursuant to which the main absconding accused Ramesh More and one of the co-accused Arun Farde along with aid of the other accused persons committed the offence of the victim having being bit by a poisonous snake. On the date of the incident, the aforesaid accused persons brought the victim in an auto rickshaw belonging to Somnath Jadhav to the room / flat of the present Applicant situated at Karma Residency, Village Dhasai, Shahapur, Dist.Thane.

5. *Prima facie*, it is seen from the statement recorded that the aforesaid accused persons gave a phone call to the Applicant and called him to his room / flat and directed him to meet them at about 11.30 p.m. at night. When the aforesaid accused persons along with deceased victim reached the flat of the Applicant, Applicant received them and he was informed that since the accused persons along with

the deceased victim had a prolonged drinking session he had become unconscious and they asked the Applicant to help them to move the victim to his room. Applicant immediately volunteered and moved the victim to his room from the auto rickshaw and left for his home thereafter. On the following morning of 04.06.2023, Applicant came to the room at about 10.30 a.m to inquire about the well being of the accused persons who are all his friends and he was informed that the deceased victim was bit by a snake and they had to urgently move him to get medical aid. Applicant once again helped the co-accused persons to move the victim from his room and put him in the auto rickshaw belonging to Somnath Jadhav, one of the accused person. Thereafter the accused persons left in the rickshaw with the victim.

6. Prosecution case is that co-accused persons slit the neck of Gopal Naidu - the victim thereafter and also tried to dispose of his body by taking it to the field belonging to Arun Farde and buried it there. After two days of the above incident, Arun Farde raised a cry that the body of the deceased victim was found to be buried at some place in his field and alerted the police. Initially Arun Farde feigned ignorance but ultimately the long arm of the law caught up with him. Motive according to the prosecution case was an apparent fallout and dispute of money between the absconding accused Ramesh More and

Arun Farde on one side and deceased victim Gopal Naidu on the other side.

7. *Prima facie* it is seen that in so far as the role of the present Applicant is concerned, it was to the extent of receiving the aforesaid co-accused on the night of 03.06.2023 and allowing the co-accused along with the deceased victim to stay in his flat / room in Karma residency. Even on the following day, witness statements recorded state that Applicant had aided and assisted them in putting the body of the victim into the auto rickshaw for taking him to give treatment for the snake bite. Admittedly, Applicant never accompanied the co-accused either on the previous day or on the following day i.e. 03.06.2023 or 04.06.2023. Auto rickshaw driver - Narayan Bhoir in which the victim was ferried has been granted bail by the Sessions Court. Prosecution has stated that Applicant aided in destroying the evidence but from the record of the case, the same has not been proven. In view of the *prima facie* role of the Applicant in the present crime as seen from the written statements, it is *prima facie* seen that Applicant has made out a case for grant of bail.

8. In view of the above, present Application is allowed in terms of prayer clause (b) subject to the following terms and conditions:-

- (i) Applicant is directed to be released on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount;
- (ii) Applicant shall report to the Investigating Officer of concerned Police Station on the third Saturday between 10:00 a.m. to 12:00 p.m. for the first three months and thereafter as and when called;
- (iii) Applicant shall co-operate with the conduct of trial and attend the Trial Court on all dates unless specifically exempted and will not take any unnecessary adjournments, if he does so, it will entitle the prosecution to apply for cancellation of this order;
- (iv) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court. He shall deposit his passport, if any, within two weeks after being released on bail with the Trial Court;
- (v) Applicant shall not influence any of the witnesses or tamper with the evidence in any manner;
- (vi) Applicant shall keep the Investigating Officer informed of his current address and mobile contact number and / or

change of residence or mobile details, if any, from time to time;

(vii) Any infraction of the above conditions shall entail cancellation of this order.

9. It is clarified that the observations in this order are limited for the purpose of granting Bail only and I have not made any observations on the merits of the case and the trial shall be adjudicated on the basis of evidence and strictly in accordance with law.

10. Bail Application is allowed and disposed.

[MILIND N. JADHAV, J.]

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