



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1089 OF 2018

Subham s/o. Shivaji Maske,
Age : 20 years, Occu.: Student,
R/o.: Pathan Galli, Parbhani
(At present in Latur
District Prison)

.. APPLICANT

VERSUS

The State of Maharashtra,
Through the Incharge Police Officer,
Udgir City Police Station,
Taluka Udgir, District Latur

.. RESPONDENT

Mr. Rajendraraa Deshmukh, Advocate for the applicant
Mr. A.S. Shinde, A.P.P. for the respondent/State

CORAM : SANGITRAO S. PATIL, J.
DATE : 29th SEPTEMBER, 2018

ORDER :

The applicant, who is accused No.6 in Sessions Case No. 39 of 2016 arising out of Crime No.118 of 2016 registered in Police Station, Udgir City, District Latur, for the offences punishable under Sections 302, 394, 451 and 120-B of the Indian Penal Code (for short, "IPC"), has sought bail in the above mentioned crime.

2. The mother of accused No.1 - Soham Pensalwar,

according to him, was keeping him under restraints and ill-treating him. Therefore, he decided to kill his mother namely, Pranita. He conspired with accused No.2 to commit her murder and offered to pay Rs.3,26,000/- for killing her. He paid accused No.2 Rs.1,76,000/- from time to time. Accused Nos. 3 to 5, 7 and the present applicant joined that conspiracy. The present applicant is alleged to have accompanied accused No.2 and assisted him in purchasing two daggers from a shop at Nanded on 25.05.2016. It is alleged that on 26.05.2016 at about 12.45 p.m., accused No.2 and three others went to the house of accused No.1 on the pretext of repairing A.C. Accused No.1 placed a towel on the face of Pranita and pushed her down on the cot. He pressed mouth of Pranita. Accused No.3 Vijay stabbed by means of a dagger on the neck of Pranita. The dagger missed from his hand and went under the hand of Pranita. Accused No.3 Vijay then asked accused No.4 Wajid to handover another dagger to him, which was in a bag. Accordingly, accused No.4 Wajid took out that dagger and gave it to accused No.3 Vijay. He then cut the throat of Pranita by means of that dagger. He further took away a gold *Mangalsutra* worth of Rs.10,300/-, which was around in the neck of

Pranita. The applicant is alleged to have thrown away the daggers, which were used for committing murder of Prantia, in a water tank at Palam. Since the present applicant played active role in the conspiracy of committing murder of Pranita, he came to be arrested on 01.06.2016.

3. The learned Counsel for the applicant submits that the applicant was not present at the time of the incident. As seen from the contents of the F.I.R., accused Nos.1 to 4 are alleged to have taken active part in committing murder of Pranita. The applicant has been connected with this crime merely on suspicion. The alleged discovery of daggers at the instance of the present applicant does not appear to be natural and probable. There is no strong evidence against the applicant. He is behind the bars since 01.06.2016. Though the charges have been framed on 04.01.2017, the trial has not yet commenced. As per the order dated 27.07.2017 passed in Criminal Application No. 2984 of 2017, this Court had directed the Trial Court to decide the sessions case as early as possible. However, these directions have been totally ignored by the Trial Court. Though the charges have been framed on 04.01.2017, the

learned Judge of the Trial Court, while rejecting the application for bail filed by the applicant, observed that the case is ready for framing charges, but due to bail applications filed by the accused persons from time to time, charges could not be framed. The learned counsel submits that this fact shows that the Judge of the Trial Court has not applied his mind to the factual position of the case and made wrong observations. He, therefore, prays that the applicant may be granted the relief of bail.

4. The learned A.P.P. strongly opposed the application. He submits that the deceased was brutally murdered as a result of the conspiracy amongst accused Nos.1 to 7. He submits that the applicant was well aware of the object of the conspiracy. He enjoyed drinks and food with accused No.2 on the money that was received by accused No.2 from accused No.1. He assisted accused No.2 in purchasing two daggers for committing murder of Pranita. After purchasing daggers, they were taken by the applicant and kept in his house for a night. Moreover, the applicant destroyed the evidence of the offence of murder of Pranita by throwing the blood stained daggers in a water tank at Palam. The said

daggers were discovered pursuant to the disclosure statement made by the applicant. They were sent to Chemical Analyst for analysis and report. The chemical Analyst's report shows that the said daggers were stained with blood. He submits that there is strong prima facie case made out against the applicant to show his involvement in the conspiracy of murder of Pranita. He, therefore, prays that application may be rejected.

5. The applicant had filed Criminal Application No.372 of 2017 for regular bail which was withdrawn by him on 06.02.2017. The applicant then filed Criminal Application No.2984 of 2017 for regular bail, which was again withdrawn by him with liberty to renew the prayer for bail either before the Sessions Court or before this Court. It was disposed of vide order dated 27.07.2017 with liberty as prayed for. This is the third application for bail before this Court.

6. There are statements of the witnesses showing that the present applicant was in the close contacts with accused No.2, who seems to be the mastermind of the conspiracy. The applicant used to accompany accused No.2. He is stated to have enjoyed drinks and food with

accused No.2. The applicant was with accused No.2 on 25.05.2016 for purchase of two daggers from a shop at Nanded. The shop owner has identified the present applicant. The applicant, as per the instructions of accused No.2, threw away the blood stained daggers in a water tank at Palam, which came to be discovered pursuant to the disclosure statement of the applicant. C.A. report shows that the said daggers were stained with human blood.

7. There is ample evidence to show involvement of the present applicant in the conspiracy to commit murder of Pranita. She was brutally murdered. Considering the serious nature of the offences, I am not inclined to grant the relief of bail to the applicant.

8. Before parting with the matter, it would be necessary to observe about indifferent attitude shown by the learned Judge of the Trial Court in deciding the case as early as possible. It was directed by this Court vide order dated 27.07.2017 that the case should be decided as early as possible. The roznama of Sessions Case No.39 of 2016 shows that the charges were framed against accused Nos.2 to 7 on 04.01.2017. Thereafter,

the case was adjourned from time to time for hearing. However, there is nothing to show that the learned Judge of the Trial Court issued summons to the witnesses. As such, there is absolutely no progress made in the trial. Here, reference may be made to the observations of the learned Judge of the Trial Court in paragraph No.7 of the order dated 14.08.2018 passed below Application (Exh.34) by him rejecting the bail application of the present applicant, which reads as under:

".... Learned advocate for the accused vehemently submitted that trial is not yet began, the accused is in jail since long back. It appears that the matter is ready for framing of charge against the accused persons but due to bail applications filed by accused persons from time to time charge could not be framed. At no time learned advocate for the accused insisted to frame charge."

9. The above observations are totally contrary to the factual position of the case. It seems that the learned Judge of the Trial Court did not apply his mind to the facts of the case and has made wrong observations. Such apathy has to be deprecated. Hope that the learned Judge would take effective steps in

deciding the sessions case within six month from today,
since the accused persons are behind the bars for more
than two years. With these observations, I pass the
following order:-

ORDER

The Bail Application is rejected and disposed
of.

[SANGITRAO S. PATIL]
JUDGE

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