

Sessions Case No. 1018/2019
State Vs. Anand

: Order below Exh. 07 :
(Dated 28th August, 2020)

This application has been filed U/s. 439 of the Cr.P.C., seeking release of the applicant/accused on bail in connection with the offences punishable U/Ss. 302, 201, 363, 364A of the IPC.

2. The contention of the applicant is that, he was arrested by police on 11.07.2019 and since then, he is behind the bars. It is further contended by the applicant that, he has not committed any offence as alleged against him and there is no evidence showing his involvement in the commission of offence of murder. The applicant further contended that, during inquiry of missing report, deceased lady was seen in contact with suspicious mobile numbers and one of the mobile numbers was belonging to present applicant and on the basis of that, he has been arrested by the police. The applicant further contended that, entire investigation has been completed and charge-sheet is filed. There is no sufficient circumstantial evidence to show nexus between the applicant and death of deceased.

3. Ld. A.P.P. filed his say and thereby opposed the application on the ground that the vehicle and mobile belonging to deceased were found in possession of deceased, and WhatsApp messages in the said mobile discloses that deceased was called by the accused on the day of incident. Ld.A.P.P. further contended that, there is prima facie sufficient

material against the accused. If the applicant/accused is released on bail, there is possibility of tampering the evidence and remaining absent at the time of trial. Thus, Ld.A.P.P. submitted for rejection of the application.

4. I.O. filed his say at Exh. 09 and thereby submitted that during investigation, it was revealed that, present applicant and deceased were in contact with each other. Moreover, two wheeler bearing registration No. MH-12-NT-2671 belonging to deceased was seized from the possession of present applicant in pursuance to disclosure statement made by him. I.O. further contended that, if the applicant is released on bail, he will tamper with the prosecution evidence. By making such averments, I.O. submitted for rejection of the application.

5. I have heard Shri. S.A. Kolhatkar, Ld. Advocate appearing on behalf of the applicant/accused and Shri. Gehalot, Ld. A.P.P. I have also gone through notes of argument filed on behalf of applicant/accused at Exh. 11. It is argued by Ld. Advocate for the applicant that, there is no direct evidence showing complicity of present applicant in commission of offence. The entire prosecution case rests upon circumstantial evidence. However, each circumstance relied by the prosecution do not complete the chain. Mobile handset belonging to deceased were not recovered from the accused. They are seized from the Alto Car which was not in the exclusive possession of the applicant. It is further submitted that, the investigating officer has not fully analyzed all the probabilities and jumped to the conclusion that the present applicant has

committed the murder. Ld. Advocate for the applicant further submitted that, the accused is languishing in a jail for more than one year. He is permanent resident of Pune and no possibility of his absconding. Thus, he prayed for releasing the applicant/accused on bail.

6. Per-contrā, Ld. A.P.P. submitted that, nature of the offence is serious one and there is strong prima facie material to show involvement of the present applicant in commission of offence of murder. According to Ld. A.P.P., the informant took the deceased lady at remote place, removed ornaments from her person and then committed her murder. Ld.A.P.P. further submitted that, considering the chain of circumstances, prima facie, there is material to show that present applicant and none else committed the alleged offence. He further contended that, if the applicant is released on bail, he will not remain present at the time of trial. Thus, Ld.A.P.P. submitted for rejection of the application.

7. In the light of submissions made on behalf of both the sides, I have perused record of Sessions Case No. 1018/2019. It is seen that, on 25.06.2019, one Rutik Rakesh Agrawal lodged missing report contending therein that, on 22.06.2019 at about 8.00 a.m., his mother Radha Agrawal left the house with her Activa Scooter bearing No. MH-12-NT-2671. However, she did not return back. On the basis of report, missing complaint No. 60/2019 is registered and PSI Swapanil Devrao Patil started inquiry. During inquiry, he seized two mobiles belonging to deceased from Alto Car which was in possession of present applicant.

After verifying the CDR record, it is revealed to PSI Patil that the deceased was in contact with present applicant and present applicant kidnapped her. Therefore, on 10.07.2019, he lodged report against the applicant, and on the basis of that, Crime No. 216/2019 was registered. During investigation of Crime No. 216/2019, I.O. arrested present applicant on 11.07.2019. During police custody, the applicant made disclosure statement before police and in pursuance of that, Scooter bearing No. MH-12-NT-2671 belonging to deceased was recovered from the possession of the applicant. Moreover, one knife was recovered at the instance of applicant. During investigation, it was revealed to the I.O. that, the present accused kidnapped the deceased for ransom and committed her murder. Accordingly, charge-sheet is filed against the accused for the offences punishable U/Ss. 302, 201, 363, 364A of the IPC. Postmortem examination report discloses that there were injury on the neck of deceased. Viscera is sent for Chemical Analysis. However, report is not received. Prima-facie, it shows that death of deceased has occurred due to injury to her neck.

8. No doubt, the entire prosecution case is resting upon circumstantial evidence, however the material collected by the I.O. during investigation, prima facie pointing towards the accused. Moreover, nature of the alleged offence is serious. In such circumstances, though investigation has been completed, charge-sheet is filed and case is committed to this Court for trial, in my view, it is not a fit case to release the applicant on bail, otherwise it would be very difficult to secure presence of the applicant/accused at the time of trial.

Thus, considering the entire facts and circumstances of the case, the application for bail is liable to be rejected. With this, following order is passed:-

ORDER

Application (Exh. 07) is rejected.

(J. N. Raje)

Date: 28.08.2020

Additional Sessions Judge, Pune.

I affirm that the contents of this P.D.F. file order are same word for word as per original order.

Name of Steno.	:-	S.P. Chabukswar
Court Name	:-	J. N. Raje Additional Sessions Judge, Pune
Date	:-	28.08.2020
order signed by P.O. on :-		29.08.2020
order uploaded on	:-	29.08.2020