

Order below Ex.7.
(State Vs. Tejas Santosh Londhe)

1. This is an application for regular bail in connection with Crime No.298 of 2021, registered with Alandi police station for the offence punishable under sections 302, 397, 201 r/w.34 of the Indian Penal Code.

2. Perused the application and say of the learned prosecution alongwith charge-sheet and other documents placed on record. Heard the learned APP and learned counsel for the applicant/accused.

3. As per the case of prosecution, on 26.11.2021 in the morning hour deceased Radheshyam Rathi had been to his work place i.e. Bandi Pvt. Ltd. Chakan. He was driver in the said company; however, he did not return to the house till night and his mobile phone was found switched off. Therefore, on the next day at morning, informant being a wife, went to her husband's work place. On inquiry she was told that, in the last night at about 11.30 p.m. her husband left the company and went towards house by motorcycle. Therefore, the informant made a search of her husband but in vain. Hence, missing complaint was lodged at Mhalunge (Chakan) Police Station.

4. Thereafter, on 30.11.2021 one dead body was found in Chakan wharf. The informant identified the said dead body was of her husband. On investigation it came to know that, Radheshyam was murdered by unknown person. Therefore, on the basis of report, registered the above said crime. In the course of investigation,

applicant was arrested on 11.02.2022 and seized the weapon of offence i.e. iron rod and one stone at his instance.

5. As per the learned advocate Shri. Dushing for the applicant/accused, the First Information Report is against the unknown person. The case is based on circumstantial evidence, as there is no eye witness to the incident. There is no recovery or discovery except the seizure of weapon as alleged. There is no incriminating evidence against the applicant. The investigation is completed and laid the charge-sheet before the court. The applicant does not have criminal antecedents. The applicant is laying in the jail since last 7 months. The applicant is ready to abide each and every condition. He is permanent resident of Chakan, therefore, there is no chance of absconding. Hence, prayed to enlarge him on bail.

6. The learned APP has submitted that, the applicant and co-accused Pruthviraj committed murder of Radheshyam only with a view to commit a robbery. The weapon of offence is recovered at the instance of the applicant. Moreover, the statement of traffic police namely Vaishali Pansare shows that, on 03.12.2021 motorcycle of the deceased was used by the three persons, therefore, e-challan was filed as they fled away in Chakan Chawk, though directed to stop. The photo of e-challan of the said motorcycle is on record. So also, the statement of the witness Darshan shows that, on the day of incident at about 9.00 p.m. he dropped both the accused at Alandi by his motorcycle. All these facts prima-facie shows the act on the part of the applicant to commit murder, though the case is based on circumstantial evidence. Hence, prayed to reject the application.

7. It is pertinent to note that, the First Information Report is against an unknown person. Incident of murder alleged to be occurred on 26.11.2021. The dead body of the deceased was found on 30.11.2021 in Chakan wharf. The applicant was arrested on 11.02.2022 only at the instance of the co-accused. Except the seizure of iron rod and stone, no incriminating evidence is against the applicant. The statement of traffic police Vaishali Pansare though discloses the fact that on 03.12.2021 e-challan of the motorcycle bearing registration No. MH-14-DD-3247 was filed as the rider breach the rule and took out its photo, but no test identification parade of the accused has been conducted to ascertain the fact that in these persons it contains the applicant. The photo of the motorcycle is taken from back side. Therefore, unable to identify whether the applicant was proceeding by the said motorcycle. Apart from it, the charge-sheet does not contain seizer of the said motorcycle. The memorandum of the applicant regarding commission of crime has no evidentiary value. No witness stated anything against the applicant. The applicant is in jail since last more than 7 months. Further, the investigation is completed and charge-sheet is laid before the court. The seizure of Pan-card, mobile handset and red colour pocket owned by the deceased, is recovered at the instance of the co-accused. In such circumstances, when there is no incriminating evidence, except the recovery of rod and stone, it will be just to release the applicant on bail. Whatever apprehension raised by the prosecution can be protected by imposing certain conditions. In the result, I proceed to pass the following order.

ORDER

1. Application is allowed.

2. Applicant / Accused – Tejas Santosh Londhe of Crime No.298/2021 for the offence punishable under section 302, 397, 201 r/w.34 of the Indian Penal Code, registered with Alandi Police Station, shall be released on bail on furnishing P.R. Bond for the sum of Rs. 25,000/- with one or two solvent sureties in the like amount.
3. The applicant shall not tamper with the prosecution evidence and shall attend the trial regularly on every date.
4. The applicant shall not indulge in similar activities in future.
5. The applicant shall produce his local as well as permanent address with authenticate proof and mobile number.
6. In the above terms, the bail application stands disposed of.

Khed.

Date : 26.09.2022

Additional Sessions Judge,
Khed-Rajgurunagar, Dist- Pune.