

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.2813 OF 2021

Shree Ambadas Jogdhankar .. Applicant

Versus

The State of Maharashtra .. Respondent

WITH
INTERIM APPLICATION NO.930 OF 2022
IN
BAIL APPLICATION NO.2813 OF 2021

Nidhi Prakash Kukreja .. Applicant

Versus

The State of Maharashtra & Anr. .. Respondents

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Mr.Satish Maneshinde with Ms.Anandini Fernandes and Mr.Yuvraj Dhole for the Applicant.

Mr.Pradip D. Gharat, Spl.P.P. with Ms.A.A.Takalkar, A.P.P. for the State/Respondent.

Mr.Rizwan Merchant with Ms.Gayatri Gokhale and Zainba Abdi for the Intervenor.

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CORAM: BHARATI DANGRE, J.
DATED : 07th JULY, 2022

M.M.Salgaonkar

P.C:-

1. A new year brings a chance to create dreams; A new year stands before us, like a chapter in a book, waiting to be written.

The new year of 2021, however, landed the applicant- Shree Jogdhankar, a young boy aged 21 years, into a quagmire. He is accused of murdering his close friend Janhvi and in this act, it is alleged that he was assisted by his another close friend Diya.

2. The three youngsters, the applicant, Diya and Janhvi decided to usher the new year with a Big Bang celebration alongwith their 14 friends and the venue was fixed as a terrace of Bhagwati Heights Building at Khar, in which one of their friend Yash Ahuja was residing on second floor. All the friends assembled on the terrace for celebration of the new year party on 31/12/2020 between 8 to 9 p.m.. Like the typical teenagers, they had arranged for music to be played through a projector and some of them also arrived in the party alongwith their own liquor. The evidence on record reveal that it was a contributory party, each one contributed a sum of Rs.1200/-. While all these persons were enjoying the party, Janhvi and Diya decided to visit Janhvi's house in Santacruz, since it happened to be her father's birthday. Janhvi and Diya reside in the same Apartment in Santacruz and being close friends, they alongwith the applicant proceeded to Santacruz on his Honda Activa Scooter and as per the mother of Janhvi, at

M.M.Salgaonkar

around 22.00 p.m., the girls came to the house and around 23.45 hours, the birthday cake was cut in presence of Janhvi, Diya and the applicant. After that, the threesome left for celebrating the party organised at Yash's house.

3. As per the other participants in the party, whose statements are recorded, when Diya and Janhvi returned to participate in the party, the applicant was also present with them. The scene in the party has been described by various witnesses by stating that they were having fun, they were chitchatting, consuming liquor and playing some games. On their return, the three again participated in the party and continued with the fun. As clock struck 12, they wished each other a happy new year, clicked pictures and, thereafter, some of the participants left the venue.

4. As per Yashna, Govind and Sagar left the party immediately after wishing new year at 12.00 a.m. as Yashna was to attend another party at Bandra. At around 00.55 hrs., she alongwith her friends, Karishma and Saideep noticed that the applicant and Janhvi were kissing each other. After some time, Diya who was under the influence of liquor, and, therefore, walking unstably, arrived near the projector and slept on the mattress, which was laid on the terrace. It is stated that the applicant also arrived there and slept next to her. He placed his hand over Diya and indulged in an indecent behaviour. This act of the applicant irked Janhvi and she became agitated. The friends present in the party have stated

that the applicant and Janhvi carrying a love affair for last three years and the applicant had attended the party only on the invitation being extended by Janhvi. On noticing that the applicant was getting close to Diya, Janhvi was perturbed and she removed the phone which was connected to the projector and was seen speaking to someone and simultaneously she was crying. Yashna left the party, but referred to the presence of Yash, Karishma, Saideep and Darsh.

5. Karishma, who continued in the party, state that she has also witnessed the applicant and Janhvi kissing each other on the other end of the terrace, where it was slightly dark. At around 1.25 a.m., since Karishma wanted to visit the washroom, she came down on second floor alongwith Saideep and noticed Diya sleeping in the bedroom. She again came on the terrace and noticed that the projector was switched off and when she inquired, it was informed that Janhvi had removed her phone, which was connected. Karishma noticed Janhvi talking with someone on mobile and at the same time, she was crying. When Saideep inquired with her, she hugged him, but did not disclose any reason.

As per Karishma, at around 2.15 a.m., she was leaving for her house with Saideep and arrived at the ground floor by the lift. One person was found in the lobby alongwith his dog, but since she was scared, she did not step out of the lift and went to the second floor. She told Saideep to send Yash for dropping her. When they arrived on the ground floor, the person who was standing with the dog, pointed towards the door of the staircase and when Yash peeped through, he moved

M.M.Salgaonkar

back and was very scared. It was noticed by the friends that Janhvi was lying there in a pool of blood.

6. The statements of Pratik, Saideep, Yash Ahuja, Riya Wadhwani, Malaika, Vartika, Ashwin, Sagar Bhatia and Darsh Shetty are more or less on the similar lines. Yash, who had organised the party has stated to the police that, since there was no washroom on the terrace, his friends were frequently visiting his flat situated on the second floor of the building. As per Yash, at around 2.15 a.m., since all his friends were hungry, he came to the flat alongwith Darsh for heating the food. On entering flat, he noticed that light in his bedroom was on and found Diya lying on the bed. When he called her, she turned towards him and he noticed that she had sustained an injury on her lip and the pillow was smeared with blood. When inquired about the cause of injury, she stated that she was not aware, but she appeared to be frightened. The friends, who were present in the flat, helped Diya to clean her injury. At that very time, Saideep entered into his house and told that Karishma is standing near the flat, as she was scared of the dog and Yash was asked to drop her to the main gate. When he accompanied Karishma in the lift and came on the ground floor, he was informed by Shri Dhanuka, a resident in the building, that somebody was lying there and asked him to find out whether, it is anyone from their party. On seeing, Yash noticed that Janhvi was lying in the pool of blood.

7. What has transpired in the party has largely surfaced on record through the statements of various persons, who were present in the party. However, what caused death of Janhvi is not clear. The circumstances, however, reflect that Diya, Janhvi and the present applicant were sitting and enjoying their liquor by forming a group, apart from the other friends and Riya, who was also present in the party was frequenting between these two groups. Her statement is also recorded and compiled in charge-sheet. The circumstance, which surfaced through the statement of these witnesses is that, Janhvi was upset on account of the conduct of her boyfriend (applicant), as he was noticed lying next to Diya and she was crying and talking to someone on phone.

The girl with whom she was talking on her mobile phone is one Parnika, whose statement is compiled in the charge-sheet. She is a common friend, who state that on 01/01/2021, at around 1.30 a.m., she received a phone from Janhvi and after exchanging new year wishes, Janhvi started crying and disclosed to her that despite her closeness with the applicant, he was trying to be physically close with Diya and she has not approved of it. But, she also stated that she did not want to lose either of them. She disconnected the phone abruptly and, since, Parnika was worried, she once again called her at 2.30 a.m., but the call was not attended.

8. The circumstances which indict the applicant in the charge-sheet and accuse of committing murder of Janhvi can be culled out as under :-

- (a) Janhvi was found lying in the pool of blood on the ground floor of the Apartment with 48 injuries on her body. The injuries are in the nature of lacerated wounds, abrasions and contusions;
- (b) The applicant was last seen in the company of the deceased, approximately at 1.30 a.m.;
- (c) The deceased was upset over the proximity shown by the applicant with her friend Diya and was seen crying on the phone and talking with her friend at around 1.30 a.m.;
- (d) The nature of injuries on the body of the deceased, which are clearly highlighted in the PM Report, are indicative of brutal assault and the case of death is opined to be the 'head injury'. The multiple lacerated wounds coupled with grazed abrasion on various parts of the body, indicate that the deceased was dragged from the 8th floor to the 2nd floor;
- (e) Various exhibits like bangles, earrings alongwith hairband, sandal are found lying between the 5th floor and the 2nd floor. One of the sandals of the deceased was lying on the ground floor and it appeared that the sandal which was lying on the 4th floor, is it's pair;
- (f) Tuft of hair, was found on the staircase (ground+1st and 2nd floor) and on analysis it is held to be belonging to Janhvi;
- (g) 69 forensic exhibits were collected. Out of which, 62 were collected from the scene of crime. Blood stains

were found on the stairs railing, grill of the 5th, 4th, 3rd and the 2nd floor indicating brutal assault on the deceased before her murder;

- (h) On forensic analysis, the blood samples on the 2nd floor are found to be of the applicant and the deceased. The blood samples on the ground floor are of the deceased, as she was lying in a pool of blood. The blood in the bedroom of the 2nd floor, on analysis, found to be of Diya and also of the deceased;
- (i) The applicant was seen leaving the building having a blood stained shirt on his person at around 2.15 a.m.
- (j) The learned Special Public Prosecutor has also placed on record the photographs of the crime scene, including that of the body of the deceased from which the injuries sustained by her can be assessed.

9. Apart from the aforesaid circumstances, which are noticed on the crime scene, there are certain other circumstances which incriminate the present applicant in form of his conduct after the crime was committed and the said circumstances are as under :-

- (a) The applicant made a phone call to Param at around 2.07 a.m. informing that he will be coming to his house. He again made a phone call at around 2.23 a.m. asking him to pick him up at Mahim, but when he informed that he will not be able to do so, the applicant told that he shall reach there by taxi;

- (b) The statement of Vishal Shah, the person who has seen a person aged 20 to 22 years wearing white shirt having blood stains and jeans pant and walking in a unstable condition. When he asked whether any assistance is required and how did he get blood stains, he stated that it is not his blood. Thinking that he has got drunk in a new year party, he was asked about any assistance;
- (c) Another witness, accompanying Vishal Shah, also corroborate the said version;
- (d) The applicant made phone call to one Govind Arora @ Gabba, who was also present in the party, but had left by bidding adieu and while he was in another party, the applicant told him that something had happened with Janhvi and asked to ascertain her status;
- (e) The applicant accompanied Param to Sion Hospital where he disclosed that he had sustained the injuries on account of a fight;
- (f) The applicant changed his shirt and handed over the shirt with blood stains to Param, which was kept by him in the house;
- (g) The full shirt handed over to the police by Param (Exh.36) has blood stains, which are analysed to be of the deceased as well as his own blood stains.

10. The aforesaid circumstances, which are compiled in the charge-sheet, connect the applicant with the crime; firstly, by

his presence on the crime scene and secondly, by his conduct when he left the crime scene despite being aware that Janhvi was not alive.

The case of the prosecution in the charge-sheet is, a scuffle took place between the deceased and the applicant and she was dragged from 8th floor upto the 2nd floor, resulting into various abrasions, which are noticed on her back, thighs and legs. On the staircase, she was brutally assaulted by the applicant, resulting into the injuries, which are indicated in the PM report and she was done to death and thrown down in the staircase well from the 2nd floor. The applicant is alleged to have walked out of the premises with his clothes stained with blood and though a serious attempt is made on part of the learned counsel Mr.Maneshinde that he himself has sustained injuries, on being examined by Cooper Hospital after his arrest, I am not inclined to accept the submission that the said injuries are sufficient to prove his innocence. In any case, the effect of the injuries, particularly when, Mr.Maneshinde has argued that in Sion Hospital, he was not examined physically, since it was covid time and the doctor's statement is to the effect that only as per his version, the injuries were recorded, shall be a matter of trial. Assuming for a moment that the injuries are sustained by the applicant, he will have to discharge the burden of blood stains on his clothes. The injury certificate of the applicant, issued by the Cooper Hospital on 04/01/2021, reflects two abrasions on his body as well as one sutured wound on left tempoparietal region and the Special Public Prosecutor would submit that these injuries might have sustained by him when he was walking on the road in

M.M.Salgaonkar

inebriated condition.

When the certificate dated 04/01/2021 is perused, the opinion of the Assistant Professor of Department of Forensic Medicine about the injuries sustained by the applicant is as under :-

“Opinion :-

1. Kind of weapon : Hard and blunt object on surface area
- 2) Age of injuries : 4 days to 7 days
- 3) Type of injuries : All are simple except fracture of ribs which is grievous.”

A singular circumstance of the applicant sustaining a rib fracture is not sufficient to override the other circumstances compiled against him in the charge-sheet by the prosecution, *prima facie*, pointing out to his guilt.

11. In the wake of the overwhelming circumstance of the presence of the applicant in the company of the deceased and they being last seen together and the deceased lying in a pool of blood with 48 injuries on her body, is sufficient to establish the case of the prosecution attributing the murder to him. Another important circumstance, being recovery of Honda Activa Scooter of the applicant from Bhagwati Heights building on 13/02/2021. The applicant had left the crime scene in a hurried manner, not even bothering to collect his motorcycle as he was in a dire urgency to leave the spot. The presence of the blood of the applicant on the staircase supports the case of the prosecution that the deceased was dragged by the

M.M.Salgaonkar

applicant from the staircase, she was assaulted and, thereafter, done to death.

Considering the aforesaid material compiled in the charge-sheet and considering the gravity of the accusations faced by him, no case is made out for releasing the applicant on bail. Apart from this, all the witnesses are close friends of the applicant and there is every possibility that he would tamper with the prosecution evidence and pressurize the prosecution witnesses.

The application is, therefore, rejected.

12. In view of the disposal of the application, interim application does not survive and stands disposed off.

(SMT. BHARATI DANGRE, J.)