

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Yogesh Nathaji Kale ... Applicant

The State of Maharashtra ... Respondent

Ms.P.P.Shinde, APP for the Respondent – State.

API – Chandrahar M. Godse, Vashi Police Station, Navi Mumbai.

DATED : 8th APRIL, 2015.

P.C.

1. Heard learned Senior Counsel for the Applicant and the learned APP for the Respondent - State.
2. By this application, the applicant seeks his enlargement on bail in

connection with CR.No.I – 423 of 2013 registered with the Vashi Police Station, Navi Mumbai, for the alleged offences punishable under Sections 302, 201 r/w 34 of the Indian Penal Code.

3. The alleged incident is stated to have taken place on 27th December, 2013. According to the prosecution, one Vijay Srivastav informed the police that a dead body of one lady was floating in a nala, in front of City Bank, Sector – 17, Vashi, Navi Mumbai. On receipt of the said information, API – Ramosh More of Vashi Police Station, reached the spot and informed the control room about the said incident. Accordingly, the dead body was removed from the nala, pursuant to which the dead body was taken to NMMC Hospital, Vashi for postmortem. The inquest was conducted and ADR was registered with the Vashi Police Station on 28th December, 2013. The opinion given in the postmortem report was 'Asphyxial death due to strangulation associated with head injury'. The present applicant came to be arrested on 16th April, 2014 along with two other co-accused. It is alleged by the prosecution that during interrogation, the applicant confessed and showed the place of incident. During investigation, the statement of one Pradeep More, an eye-witness and driver of the vehicle, Maruti Zen Car was recorded on 17th April,

2014. Thereafter, two more statements were recorded, one of Raju Bobde, the cousin of the applicant and the other of Jagdish Mhaske, who was the owner of the Maruti Zen Car.

4. Learned Counsel for the Applicant contended that the prosecution case rests entirely on circumstantial evidence. He submitted that it was only after the arrest of the applicant, that the statement of the eye-witness came to be recorded i.e. of Pradeep More. He submitted that infact Pradeep was an accomplice to the crime. He further submitted that the statement of the cousin of the applicant was also recorded belatedly. According to the statement of Raju Bobde, the child of the deceased was kept with him by the applicant from 27th December, 2013. He submitted that as far as recovery of the SIM Card is concerned, there was nothing incriminating in the same. Similarly, showing of the place of the incident was also not incriminating as nothing was recovered/seized from the spot.

5. Learned APP opposed the bail application. She submitted that there is sufficient material as against the applicant, to show his complicity in the crime, inasmuch as, there is an extra judicial confession made by the

applicant to Raju Bobde; an eye-witness to the incident, which clearly reveals the manner in which the alleged incident took place and the statement of the owner of the Maruti Zen Car, which shows that the applicant had taken his car on that day.

6. Perused the charge-sheet. Although Pradeep's statement was recorded on 17th April, 2014, a perusal of the said statement shows that on 26th December, 2013 the applicant had taken a Maruti Zen Car from his friend Jagdish and that he was driving the said vehicle. According to Jagdish, the applicant, the deceased, her son, Sachin More and Ankush Katkar, were present in the car. He has stated that while he was driving the car, there was a verbal altercation between the applicant and the deceased and that the deceased started abusing the applicant. He has further stated that when they were on Ghodbunder Road, the present applicant strangulated the deceased with a dupatta and that the other 2 co-accused pulled the dupatta from both sides. He has stated that as the applicant had threatened him, he did not disclose the said incident to anybody. The statement of the cousin of the applicant, Raju Bobde, shows that an extra judicial confession was made by the applicant to him, wherein, the applicant is stated to have disclosed to Raju Bobde, when

questioned regarding the deceased as 'सोडून दिली, पुण्याला सोडली, मारून टाकली'. The applicant is also alleged to have disclosed to Raju Bobde, sometime in March, 2014, that he himself alongwith Ankush and Sachin had killed Anjali (deceased). According to the statement of Raju Bobde, on 27th December, 2013, at around 5.00 to 5.30 a.m., in the morning, the present applicant has come to his house, in a red coloured Maruti Zen Car, along with his friends, Sachin More and Ankush Katkar and dropped the child of the deceased with him. It is pertinent to note that the incident is alleged to have taken place in the intervening night of 26 – 27th December, 2013.

7. Considering the material on record, prima-facie there is material on record to connect the applicant with the alleged crime..

8. Hence, the Application for bail is rejected and disposed of as such. However, the trial is expedited. The Trial Court shall make an endeavour to conclude the trial, as expeditiously as possible, and preferably within nine months from the date of receipt of this order.

9. It is made clear, that the observations made herein, are prima-facie,

for the purpose of deciding this application and the trial court shall decide the case on its own merits, uninfluenced by the observations made in this order.

10. Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)