

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.2729 OF 2014**

Prashant Maruti Bhalchim
Versus
The State of Maharashtra

....Applicant.

...Respondent.

Mr.A.P.Mundargi, Sr. Adv. i/by Shradha D. Sawant, advocates for the Applicant.

Mr. S.S.Pednekar, APP for the respondent-State.

CORAM : MRS. MRIDULA BHATKAR, J.

DATED : April 10, 2015.

P.C.:

The application is moved for bail as the applicant-accused is facing charges under Section 302, 201, 182-A of the IPC. It is the case of the prosecution that the applicant-accused approached Khalapur police station on 7.5.2014 at 19.30 hours. He disclosed his identity. He told that while passing through Bombay-Pune Express Highway, he found that one unknown young lady was lying on roadside near canal in injured condition. There was head injury and blood was coming from the injury. Public had gathered around. However, nobody was coming forward to help her. Though she could not speak, she was praying for help and, therefore, the applicant-accused with a view to offer her help with the help

of people put her in his car and took her to the Khalapur Primary Health Centre and Doctor attended her and declared that she was dead and, therefore, applicant-accused came to the police station and gave information about the death of that lady. Police noted down information given by the applicant-accused and treated it as an accidental death. Her body was sent for post-mortem. Police received the report that death was due to hypovolumic shock due to head injury and thereafter I.O. started conducting investigation that it might have been accident or also an assault. During the course of the investigation, they found that the applicant-accused knew this lady. They were in the relationship. Applicant-accused was married and the deceased wanted to marry him. She used to pursue him and therefore, on that point quarrels between them used to take place and it is the case of the prosecution that applicant-accused assaulted her and committed her murder on 7.5.2014 and arrived at the police station gave false information to the police of accidental death of the deceased. Thereafter, API Mr. Sanjay Satav gave information and the offence was registered against the applicant-accused in C.R.No.,73 of 2014 at Khalapur police station, District; Raigad. Accused was arrested on 20.5.014. Hence, this bail application.

2 The learned Senior Counsel for the applicant-accused submitted that the applicant-accused is innocent though there is evidence

against him in the nature of statement of mother of the deceased and other persons that the applicant-accused knew deceased and they were in relationship. There is a possibility that the applicant-accused being married did not want to disclose this fact to the police due to embarrassment with apprehension that he might land up in any other awkward situation. He submitted that there is no evidence against him regarding his involvement in the murder. The learned Senior Counsel further submitted that recovery of cell phone of the deceased and spanner is shown at the instance of the applicant-accused. However, there are no blood stains on the spanner and moreover recovery is shown on 23.5.2014. However, the call records of the said phone produced in the charge-sheet discloses that from 7th May to 19th May there were no phone calls from that cell phone. However, there were phone calls from the said phone on 19th and 21st May , 2014 and the location of the cell phone is shown at Khalapur. Recovery of the cell phone is shown in Pune. The learned senior Counsel submitted that the evidence whatever collected against the applicant-accused is false.

3 The learned prosecutor submitted that there are nearly 7 incriminating circumstances against the applicant-accused. He relied upon the order dated 4.12.2014 passed by the learned Sessions Judge Raigad, Alibag. He submitted that report was given by the accused to the police station on 7.5.2014. A purse containing pan card of the deceased was

found in the car of the applicant-accused. Blood stains were found in the said car. Two albums showing photographs of the applicant-accused and the deceased were seized. There is seizure of mobile and spanner at the instance of the applicant-accused. The learned prosecutor relied upon the CDR report.

4 It is the case of murder under Section 302 of the IPC. There is no eye witness. The case stands on circumstantial evidence. On perusal of the statements of the witnesses, it appears that circumstances of conduct and motive go against the applicant-accused. Perused PM Notes. It shows that there was one blow on head from the backside. CDR reports as pointed out by the learned Senior Counsel are of 19th and 21st prima-facie create doubt about the recovery of cell phone of the deceased.

5 Considering these facts, I am inclined to grant bail on the following terms:

i) The applicant/accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.30,000/-, with one or two sureties in the like amount;

ii) The applicant shall not tamper with the evidence;

iii) The applicant shall not indulge into any kind of offence while

on bail;

iii) The applicant shall attend the sessions Court.

(MRS.MRIDULA BHATKAR, J.)