

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION No.187 OF 2016

Vikas Balu Atulkar .Applicant

Vs.

The State of Maharashtra .Respondent

Mr.Umesh R. Mankapure, Advocate, for the
Applicant

Mr.Arfan Sait, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 29.04.2016

P.C.

. Heard learned 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
C.R.No.63 of 2015 registered with the Palus
Police Station, District – Sangli, for the
alleged offence punishable under Section 302 of
the Indian Penal Code.

3. On 29.06.2015, the police found a dead body on the road, pursuant to which an AD was registered. During investigation, it transpired that the Applicant had caused the murder of the deceased, pursuant to which, the aforesaid FIR was lodged by Police Hawaldar-Sanjay Shripati Kumbhar, as against the Applicant.

4. Learned counsel for the Applicant submits that the prosecution case entirely rests on circumstantial evidence. He submits that there are statements of three witnesses; which are allegedly against the Applicant; (i) Vikas Mote, who has disclosed that the Applicant and the deceased were drinking together on the said date i.e. on 28.06.2015 at about 7.00 p.m.; (ii) Javed Mulla, who has stated that the Applicant had come to his shop for charging his mobile on 28.06.2015 at about 6.30 p.m. and (iii) the statement of Applicant's sister Rekha Ramchandra Bhadugale, who has disclosed the motive for the

Applicant to cause the alleged offence. He submitted that even otherwise, a perusal of the FIR shows that the incident in question had taken place on the spur of the moment and that it was not a premeditated act. He submitted that the Applicant had assaulted the deceased with fist and kick blows and that no weapon was used.

5. Learned APP opposed the Bail Application. He submits that the Applicant had a strong motive to cause the death of the deceased. He submits that the Applicant had gone to Islampur, where the alleged incident took place. He submitted that the CDR record shows the location of the Applicant and the deceased, at Islampur. He submits that there is an extra judicial confession made to Ramchandra Nivrutti Bhadugale, the brother-in-law of the Applicant.

6. Perused the papers. Although the prosecution case rests on the circumstantial

evidence, prima facie, there are circumstances which show the complicity of the Applicant. Although, the Applicant is alleged to have assaulted the deceased with fist and kick blows, the post mortem report shows that there was a fracture of the 5th & 6th ribs on the right side and that the lungs were ruptured. The cause of death shown is 'cardiorespiratory arrest due to intrathoracic haemorrhage shock due to vital organ rupture'. It also appears that there is an extra judicial confession made by the Applicant to his brother-in-law. The motive is spelt out by the Applicant's sister-Rekha. It also appears that the Applicant was last seen in the company of the deceased before the incident and the statement of Vikas Mote fortifies the same. The CDR records also support the presence of the Applicant at Islampur with the deceased.

7. Considering the material on record, this is not a fit case to enlarge the Applicant

on bail. Accordingly, the Application stands rejected. Considering the facts of the case, the trial of the Applicant is expedited. If for no fault of the Applicant, the trial does not conclude within a reasonable period, the Applicant is at liberty to renew his prayer for bail.

8. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

(REVATI MOHITE DERE, J.)