

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

CRIMINAL BAIL APPLICATION NO. 72 OF 2016

Shri Mangatram Kundanlal Sansi ... Applicant.
V/s.
The State of Maharashtra ... Respondent.

Mr. Chetan S. Damre, Advocate for the Applicant.
Mrs. R. M. Gadhvi, A.P.P. for the Respondent – State.

CORAM : A. M. BADAR, J.
DATE : 08th JUNE, 2016

P.C. :

1 The Applicant/accused in Crime No. I-103 of 2014 for the offences punishable under sections 302, 120(B) read with section 34 of the Indian Penal Code, registered with Chandwad Police Station, Dist. Nashik, by this application under section 439 of Criminal Procedure Code, is praying for releasing him on bail during pendency of the trial.

2 Heard learned counsel appearing for the Applicant/accused-Mangatram. Learned for the Applicant vehemently argued that one other accused by name Avinash Govind Yashwant is already released on bail, as evidence against him found to be scanty. He further argued that the first person by name Avinash Yashwant, who saw the present applicant/accused, has not identified the present applicant/accused in the identification parade. He further argued that the police had alleged that one Salim Ibrahim Pathan had

identified the present applicant and this is so, as possibility cannot be ruled out that this identification is done at the instance of the relatives of the victim. According to the learned counsel for the Applicant, there is no evidence to connect the present applicant with the crime in question and, therefore, he is entitled to be released on bail, pending trial.

3 Learned APP for the State argued that the present applicant had conspired with co-accused-Lucky and they eliminated the deceased-Amrit Singh in the night, intervening 30.07.2014 and 31.07.2014. According to the learned APP, the case is based on circumstantial evidence and the material collected during the course of investigation completes the chain of circumstances which excludes innocence of the present applicant/accused and, therefore, at this stage, the applicant/accused is not entitled for bail.

4 With assistance of the learned counsel appearing for both the parties, I have perused the charge-sheet. The FIR in question is lodged after preliminary enquiry by one Shreehari Ramchandra Bahirit, Police Inspector of Chandwad Police Station, Nasik Gramin, Dist. Nashik. According to the prosecution case in the intervening night of 30.07.2014 and 31.07.2014, victim Amrit Singh was done to death. The postmortem report goes to show that deceased-Amrit Singh died homicidal death. The cause of his death is shown to be

ligature strangulation. The prosecution is propounding last seen theory. This theory is vouched by the evidences of witness - Avinash Yashwant (initial suspect) so also Kunal Bagul. They were employed as sweeper in Dawal Malik Dargah, Chandwad-Manmad Road, Tal. Chandwad. The present applicant-Mangatram alongwith the co-accused-Lucky and deceased - Amrit Singh had taken shelter of that Dargah, as it was raining outside. The deceased-Amrit Singh preferred to have tea; whereas the present applicant as well as co-accused Lucky had consumed liquor in that Dargah. Avinash and Kunal had seen them sleeping in that Dargah in the night. Next day, in the morning hours, the dead body of Amrit Singh was found to be rapped in the blanket, which was used by the witness -Avinash. Prima facie, it is seen that time gap between victim who was alive and his death was so short to conclude that in all probability those are the persons who were alongwith the deceased, had murdered him. Ultimately, all these aspects will have be considered during trial on examination of the evidence of the prosecution. However, considering the nature of the evidence against the present applicant and seriousness of crime, this is not a fit case to release the applicant on bail.

5 In the result, this bail application deserves to be rejected and it is rejected accordingly.

(A. M. BADAR, J.)