

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

**CRIMINAL APPLICATION NO.824 OF 2016
IN
CRIMINAL APPEAL NO.380 OF 2016**

Santosh Madhavrao Chavan .. Applicant

V/s.

The State of Maharashtra .. Respondent

.....
Ms. Nagma Tandan, Advocate for the Applicant.
Ms. M.M. Deshmukh, APP for the Respondent – State.
.....

**CORAM : NARESH H. PATIL AND
PRAKASH D. NAIK, JJ.**

DATED : AUGUST 22, 2016.

P.C. :

The applicant was convicted and sentenced to life imprisonment for offences punishable under Section 302, 201 and 120-B of the Indian Penal Code alongwith two other accused. Originally seven accused persons were tried. During pendency of trial accused no.7 died hence proceedings against him abated.

2 Prosecution case in brief is as under:

Complainant Pratap Ganeshji Rathod was resident of Dhankawadi, Pune. He was involved in business since last 25 years. He alongwith his uncle Dalaram Rathod used to look after catering business. There were about 20 to 25 workers working under them. On 25th May, 2014, marriage ceremony of daughter of Mr.Solanki was to be performed. Dinner went on till 11.00 p.m. Thereafter they collected utensils and loaded in pick-up van. First informant left the place at about 1.30 a.m. on 26th May, 2014. At about 2.50 a.m. he received a call from one of the worker who informed him that they were proceedings towards Dhankawadi with the pick-up van, they saw Activa bike of Dalaram Rathod was lying on the road. They searched Dalaram Rathod but he was not traced out. It was further informed that when Dalaram Rathod had left the place with his Activa bike, one red colour Indica car chased his Activa. The said Indica car might have dashed Dalaram Rathod or somebody might have abducted him. They approached Bibvewadi police station and informed the police. FIR came to be registered bearing No.72 of 2014 for the offence punishable under Section 363 and 364 of the Indian Penal Code.

3 Trial Court convicted applicant and other accused for an offence punishable under Section 120-B and under Section 302, 301 of the IPC. Their sentences were directed to run concurrently. Original accused nos.4, 5 and 6 were acquitted. Present applicant was acquitted for an offence punishable under Section 364-A of the IPC.

4 Learned counsel for the applicants submits that merely on evidence of recovery of articles the applicant was convicted and sentenced. Prosecution has failed to establish motive to commit crime. Chain of circumstances has not been established by the prosecution. Learned counsel for applicant placed reliance on the following judgments:

- 1) *Mula Devi & Anr. Vs. State of Uttarakhan*¹**
- 2) *Jackaran Singh Vs. State of Punjab*².**

5 Learned APP submitted that strong circumstances are brought on record indicating the involvement of applicants in the crime. The deceased was abducted for the purpose of ransom and was killed.

1 2008(14) SCC 511

2 1995 Cri. L.J. 3992 (Supreme Court)

6 We perused the record, judgment of the trial Court and the judgments of the Apex Court cited above. Prosecution has mainly relied upon recovery of rope and a shoe from the applicant. On a nylon rope two tissues were found and were sent for experts opinion. Prosecution stated that the applicant was working under the deceased but according to the defence no such evidence was brought on record. We have perused the Postmortem Report wherein the cause of death is mentioned that *“in our opinion, death was due to strangulation due with multiple blunt injuries”*. The contention that motive was not established by the prosecution deserves to be considered while assessing the case of the applicant for releasing him on bail. In respect of recovery of a shoe, the counsel submitted that there are discrepancies in the evidence. It is crucial to note that the case of ransom as against the applicant and other two convicted persons was disbelieved by the trial Court and they were acquitted of the said offence. In totality of the facts and circumstances, we are of the view that in view of the evidence brought on record, bail application filed by the accused deserved to be allowed.

7 Hence, we pass the following order:

:: ORDER ::

- (i) The application is allowed;
- (ii) Pending hearing and final disposal of the appeal the substantive sentence awarded against the applicant in Sessions Case No.652 of 2014 by the Additional Sessions Judge, Pune stands suspended;
- (iii) Pending hearing and final disposal of the Appeal, applicant - Santosh Madhavrao Chavan is directed to be released on furnishing P.R. Bond of Rs.25,000/- (Rupees Twenty Five Thousand only) with one surety in the like amount.

(PRAKASH D. NAIK, J.)**(NARESH H. PATIL, J.)**