

Anand

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

BAIL APPLICATION No.1624 OF 2015

Santosh Dhananjay Korde .Applicant

Vs.

The State of Maharashtra .Respondent

Mr.A.P.Mundargi, Senior Counsel i/b.
Mr.R.V.Bansode, Advocate, for the Applicant
Ms R.M.Gadhvi, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 30.03.2016

P.C.

. 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
C.R.No.39 of 2015 registered with the Pusegaon
Police Station, District – Satara, for the
alleged offence punishable under Section 302
r/w.34 of the Indian Penal Code.

3. The incident has taken place on 28.04.2015 at about 9.00 a.m. The Complainant is the brother of the deceased-Sanjay Korde. According to the Complainant, at about 9.30 p.m. when the family was having dinner, at about 9.45 p.m., deceased-Sanjay received a call on his mobile. According to the Complainant, Sanjay disclosed to him, that he had received a call and hence was going out. Deceased-Sanjay left on his nephew-Suraj Korde's motor cycle. At about 10.20 p.m., the Complainant received a call from Ravindra Wagh, informing him that Sanjay was lying in an injured condition in a pool of blood near Katewadi village. Accordingly, the Complainant alongwith his brother Shivaji and friend Dilip went to the spot. He has stated that Ravindra Wagh and Deepak Korde were present there and that Sanjay was lying in an unconscious condition in a pool of blood and that there were injuries on his neck, head, chest and waist. He has further stated that the

motor cycle on which Sanjay had gone was lying near the road. According to the Complainant, Suraj Shevate from Katewadi had come there alongwith others and had informed him, that just prior to the incident, Sanjay Korde had come there and asked Suraj why he had called him, to which Suraj replied that he had not called him. On seeing the number on the Sanjay's (deceased) mobile phone, he found that the number from which call was made to Sanjay Korde, belonged to the Applicant and that he had seen the Applicant at about 7.00 p.m. in the Padanraki agricultural land. Pursuant to the aforesaid disclosure, a complaint was lodged by Uttam Korde, the brother of the deceased. The motive for the alleged assault was also disclosed in the complaint.

4. Learned Senior Counsel for the Applicant submitted that there are discrepancies in the statement of Suraj Shevate with regard to

the timings and the statement of the Complainant as to when the deceased had left home and when he met Suraj Shevate. He also relied on the statement of Rakesh Shevate in order to show the discrepancies between the earlier two statements. He submitted that there is nothing to show that the Applicant had called the deceased. According to him, the Applicant had no motive to cause the alleged assault.

5. Learned APP opposed the Bail Application. She submitted that there is ample evidence as against the Applicant. She submitted that the Applicant had called the deceased four times on the date of incident between 7.30 p.m. and 9.30 p.m. and the same is evident from the CDR report, which shows that four calls were made by the Applicant to the deceased. She submitted that pursuant to the phone calls, the deceased went to the spot, where he met Suraj, who disclosed to him that he had not called the

deceased. She submitted that the statement of Suraj shows that on verifying the number which was received by the deceased on his mobile, it was revealed that the number belonged to the Applicant. She submitted that in addition to this material, there is an extra judicial confession, made by the Applicant to Satish Patil and there is recovery of a blood stained knife at the instance of the Applicant. She submitted that there was motive of the Applicant to cause the alleged assault on the deceased, as the deceased had assaulted the father of the Applicant on the previous day i.e. 28.04.2015.

6. Perused the papers. Although the prosecution case rests on circumstantial evidence, there is ample material as against the Applicant in the form of extra judicial confession, recovery of a blood stained knife, CDR records and the statement of Suraj Shevate and Rakesh Shevate.

7. Considering the material on record, this is not a fit case to enlarge the Applicant on bail. Accordingly, the Bail Application stands rejected.

8. It is made clear, that the learned Judge shall consider the case on its own merits uninfluenced by the observations made in this order.

(REVATI MOHITE DERE, J.)