

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1862 OF 2016

Prakash Ramchandra Patil

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. T. R. Shetty Advocate for Applicant.
Smt. Rutuja Ambekar APP for the State.
Mr. Shashikant S. Yadav, Asstt. Police Inspector
Dongri Police Station.

CORAM : A. S. GADKARI, J.
DATED : OCTOBER 24, 2016.

PC :

1) This is an application under section 439 of the Code of Criminal Procedure, 1973 for bail in CR No. 242 of 2014 registered with Dongri Police Station Mumbai under section 302, 201, 342, 120(B), 170 of the Indian Penal Code.

2) It is the prosecution case that the dead body of an unknown person was found within the jurisdiction of Manor Police Station on 21.8.2014 and the same was in decomposed condition. That, the dead body was taken to Rural Hospital, Manor, District Palghar. After the postmortem examination the said

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body was disposed off by the Manor Gram Panchayat, Taluka and District Palghar. It is further the prosecution case that on 23.8.2014 Mr. Vishal Achrekar lodged a man missing complaint bearing No.38/2014 with the Dongri Police Station about the missing of his brother namely Vaibhav Achrekar from 20.8.2014. During the course of investigation, it revealed that the said deceased Vaibhav Achrekar was having love affair with accused No.3 Jyotsna More. The mobile phone of Jyotsna More was thereafter taken for verification by the police . It was found that from the mobile phone of Mr. Jyotsna More, a particular number was being contacted regularly. The police thereafter contacted the coaccused Prakash Patil and enquired with him. Initially Jyotsna More and Prakash Patil did not divulge anything to the police. Subsequently, Jyotsna More informed the police that she was having love affair with the deceased and he was harassing her for physical relationship. She further informed that she was also having love affair with Mr. Prakash Patil (Accused No.1) and with a view to get rid from Vaibhav Achrekar she told the said fact to accused No.1 Prakash Patil . That, accused No.1 Prakash Patil along with his friend i.e. present applicant thereafter called Vaibhav Achrekar at Naigaon, District Palghar on 20.8.2014 at about 8.30p.m.

The said Vaibhav Achrekar was thereafter taken to the office of the applicant. The accused No.1 Prakash Patil and applicant thereafter assaulted the said Vaibhav with fist blows, kicks and bambu stick and late in the night at about 10.00p.m. they committed the murder of Vaibhav with a rope by strangulating him. Thereafter, the applicant and accused No.1 Prakash Patil wrapped the dead body of the said deceased Vibhav in a bed sheet and from the vehicle of the applicant they went from the highway and threw the said dead body in the flowing river. After receipt of the said information Smt. Girija Mhaske lodged the first information report on 21.12.2014. After completion of investigation. charge sheet has been filed on 16.3.2015.

3) The learned counsel for the applicant submitted that co-accused Michael Mozes has been released on bail by this Court vide its order dated 28th January, 2016. She submitted that except the additional circumstance of motive which is attributed to the present applicant, there is no difference in the role played by the applicant and the said co-accused Michael Mozes. She further submitted that as a matter of fact there is a recovery of the pan card of the deceased from the office of the said accused Michael Mozes. However, as far as present applicant is concerned, except the circumstances of last seen

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together and motive, there is no other incriminating circumstance. She therefore submitted that the applicant is entitled to be released on bail on the ground of parity.

Per contra, the learned APP vehemently opposed the application and submitted that the motive behind the present crime revolves around the applicant. That the applicant is the main perpetrator of the present crime and therefore, the application may be rejected.

4) After perusing the entire charge-sheet, I find substance in the submissions of the learned counsel for the applicant. Applicant is therefore entitled to be released on bail on the ground of parity with Michael Mozes.

Hence the following order:

ORDER

- (a) The applicant be released in CR No. 242/2014 dated 21.12.2014 registered with Dongri Police Station, Mumbai on his furnishing PR bond of Rs. 25,000/- with one or two solvent sureties in the like amount.
- (b) After his release from Jail, the applicant shall attend the Dongri Police Station on every 1st and 3rd Monday between 10.00 a.m. to 12.00 noon.
- (c) The applicant shall attend all the dates of the Trial Court.

(d) The applicant shall not tamper with evidence and/or influence the prosecution witnesses.

(e) Application is allowed in the aforesaid terms.

(A. S. GADKARI, J.)