

Anand

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

BAIL APPLICATION NO.338 OF 2017

Navin Keshav Patel .Applicant

Vs.

Union Territory of India & anr. .Respondents

Mr.H.H.Ponda, Advocate, for the Applicant

Mrs.P.H.Kantharia, Spl.P.P., for the Respondent
No.1

Mr.Prashant Jadhav, APP, for the Respondent No.2
— State

CORAM : REVATI MOHITE DERE, J.

DATE : 19.06.2017

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks his enlargement on bail in connection with C.R.No.06 of 2016 registered with the Coastal Police Station, Daman, for the alleged offence punishable under Section 302 of the Indian Penal Code.

3. Learned counsel for the Applicant states that the Applicant has been falsely implicated in the said case only on suspicion. He relied on the map which is on page No.71 of the Application, in support of his submission. He submitted that the possibility of somebody else entering the house and committing the murder of Devendra Patel cannot be ruled out. He assailed the statements of the witnesses Bhartiben Patel, Haunsaben Halpati & Mitiksha Patel. He submitted that according to Mitiksha's statement, she was present at home and was in the bathroom of the bedroom, where Devendra Patel was murdered, but still did not hear any hue and cries nor did she notice the blood stains on the floor in the bedroom and outside, thus making her presence at home doubtful.

4. Learned Special Public Prosecutor submitted that the statements of Bhartiben Patel, Haunsaben Halpati & Mitiksha Patel

have also been recorded under Section 164 of the Code of Criminal Procedure. She submits that there is a CCTV footage, which clearly shows, the Applicant entering the premises in a swift car at 9.05 a.m. and leaving the said place at 10.02 a.m. She submitted that the evidence on record shows that the Applicant entered the house, that Bhartiben accompanied him upto Devendra's bedroom and was later seen by Mitiksha, leaving the house.

5. Perused the papers, in particular, the statements of Haunsaben, Bhartiben and Mitiksha. According to Haunsaben, a maid servant who was working with the deceased family, one person came and stood at the main door and asked about Devendra (deceased). She has stated that pursuant thereto, she called Bhartiben, mother of the deceased. According to Bhartiben, she recognized the Applicant and led him upto Devendra's bedroom and thereafter, went back to

the kitchen. According to Mitiksha, she was present at home and after taking her bath, she joined her mother in the kitchen, for cutting vegetables. She has stated that she saw the Applicant going out of the main door at about 10.00 a.m.. From the statements of these witnesses, it appears that Haunsaben, while sweeping the floor, saw blood stains near the main door of the house and also (blood) foot prints, coming from the direction of Devendra's room. Haunsaben informed Bhartiben and Mitiksha, pursuant to which they entered Devendra's room and saw him lying on the bed, with grievous injuries on his head and neck. The CCTV footage shows the Applicant entering the premises at about 9.05 a.m. in a Swift car, and leaving the premises at about 10.02 a.m.

6. Considering the aforesaid, this is not a fit case to enlarge the Applicant on bail. There is prima facie material to show the

Applicant's complicity in the crime.
Accordingly, the Application stands rejected.
However, the trial is expedited.

7. 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.)