

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

BAIL APPLICATION NO. 758 OF 2017

Manoj Vaidyanath Mishra	.. Applicant
Vs.	
The State of Maharashtra	.. Respondent

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Mr.S.V. Marwadi a/w. Ms.Mallika Ingale i/b. Saroj Jadhav,
Advocate for the Applicant.
Mr.M.G. Pethe, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATED : JULY 17, 2017.

P.C. :

This is an application for bail. The applicant is arrested in connection with C.R. No.I-647 of 2015 registered with Virar Police Station. The applicant was arrested on 7th October, 2015. The offences were registered under Sections 302, 109, 120-B, 201 and 203 read with Section 34 of the IPC.

2 The prosecution case is that the co-accused Sanjay Singh was having illicit relationship with the wife of the deceased. It is the prosecution case that the deceased was apprehending danger at the instance of Sanjay Singh. The wife of

the deceased namely Kavita was working with Sanjay Singh. It is alleged that the applicant was closely associated with the main accused who were on visiting terms in the house of the deceased. The prosecution is relying upon the statement of son of the deceased in that regard. It is the prosecution case that the deceased was found dead in bushes. He was strangled. It is, therefore, alleged that the wife of the deceased and the co-accused in connivance with each other has committed murder of the deceased. It is alleged that on the night of 24th September, 2015, the applicant and the co-accused had visited one hotel and had consumed liquor. The same is recorded in C.C.T.V. camera. The statements of the employees of the hotel were also recorded wherein they have stated that they viewed the C.C.T.V. footage and stated that the names of the said persons were informed them by the police. The photographs of the accused were also shown to the said witness. Learned counsel for the applicant Shri.Marwadi submitted that except the evidence of last seen with the main accused Sanjay Singh, there is no other evidence to implicate the present applicant in the said crime. It is submitted that merely on suspicion, the applicant cannot be implicated in the crime. It is submitted that the photographs of the accused were shown to the witnesses with the view to identify them by the

police. It is submitted that the statement of the co-accused on the basis of which the applicant is implicated cannot be relied upon by the prosecution. It is submitted that the statement of son of the deceased at the most would show that the applicant and the co - accused Sanjay Singh were on visiting terms in the house of the deceased. The prosecution case is that the co-accused Sanjay Singh had an affair with the wife of the deceased.

3 Learned APP relied upon the evidence of C.C.T.V. footage. It is submitted that the evidence of last seen with the co-accused is sufficient to show involvement of the applicant. It is submitted that the statements of the employees of the hospital as well as the son of the deceased were also recorded which shows the complicity of the applicant. It is submitted that the statements of the co-accused had revealed the involvement of the applicant in the present crime.

4 After going through the papers of investigation, it can be seen that the prosecution is relying upon the recording in C.C.T.V. footage which shows that in the night of 28th September, 2015, the applicant had visited the hotel and consumed liquor

along with the co-accused Sanjay Singh. The prosecution is further relying upon the statement that the applicant is acquainted with the accused Sanjay Singh and he used to visit the house of the deceased. Apart from the above material, there is no cogent evidence to show the involvement of the applicant in the said crime. The statement of the co-accused cannot be relied upon to substantiate the charge against the applicant. However, there is no evidence to establish that the applicant was present with the co-accused at the scene of offence where allegedly the deceased killed or his body was found. The applicant is in custody since 7th October, 2015, further detention is not called for. The applicant is,, therefore, entitled for bail.

5 Hence, I pass the following order:

:: ORDER ::

- (i) Bail Application No.758 of 2017 is allowed;

- (ii) The applicant is directed to be released on bail
in connection with C.R.No.I-647 of 2015,
registered with Virar Police Station, Taluka
Vasai, District-Palghar on furnishing P.R. Bond

in the sum of Rs.25,000/- (Rupees Twenty Five Thousand) with one or more sureties in the like amount;

- (iii) The applicant is directed to report Virar Police Station once in a month on first Saturday between 11.00 a.m. to 1.00 p.m. till the conclusion of the trial;
- (iv) The applicant shall not leave the State of Maharashtra without the permission of the trial Court;
- (v) Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)