

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 920 OF 2017**

Kishore Malku Jadhav

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Hrishikesh Mundargi i/b Mr. Subir Sarkar for the Applicant

Ms. J. S. Lohakare, A.P.P for the Respondent-State

PSI Mr. B. D. Gavand from Vinoba Bhave Nagar Police Station, is present

CORAM : REVATI MOHITE DERE, J.
WEDNESDAY, 27th SEPTEMBER, 2017

P.C. :

1. Heard learned Counsel for the parties.
2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. I-86 of 2016 registered with the Vinoba Bhave Nagar Police Station, for the alleged offences punishable under Sections 302, 328, 364, 201, 120(B) of the Indian Penal Code.
3. Learned Counsel for the applicant submitted that the applicant has been falsely implicated in the said case and that there is no material to connect the applicant with the alleged offence. He submitted that

admittedly there was no motive for the applicant to commit the alleged offence nor has the applicant been named in the FIR lodged by the complainant-Gangubai Pawar, mother of the deceased-Deepak Pawar. He further submitted that the statement of Baba Mallappa Pawar, step-brother of deceased, was recorded belatedly i.e. on 26th April, 2016. He submitted that it is highly improbable that the said witness i.e. Baba Pawar would not have disclosed what he saw on 15th March, 2016 to the complainant and other relatives, more particularly, when he was staying in the same vicinity. He submitted that the applicant is in custody since 17th April, 2016 and that investigation is complete and charge-sheet is filed.

4. Learned A.P.P opposed the application.

5. Perused the papers. The complainant-Gangubai Pawar is the mother of the deceased-Deepak. The deceased went missing on 14th March, 2016, pursuant to which, the complainant lodged the aforesaid complaint/FIR on 15th March, 2016 as against Janu Pawar @ Billa, Prakash Mallappa Pawar @ Michael, Parvez Khan and Shekhar Waghmare @ Babu, alleging an offence punishable under Sections 365 r/w 34 of the

Indian Penal Code. Admittedly, the applicant has not been named in the FIR. The dead body was found on 17th April, 2016 in the Khopoli Ghat. On 21st April, 2016, the complainant's supplementary statement was recorded, wherein, she has stated that on 14th March, 2016, her son-Deepak had not come home and as it was late and he had not come home, she was worried and therefore, set out to look for him. She has further stated that she saw her son-Deepak near the pipeline along with Babu, Landya Raju, Habib. She has stated that she asked Deepak to come home, however, he told her that he would come after some time. This statement is with respect to Deepak being last seen in the company of the co-accused. Admittedly, the applicant has not been named as being present along with Deepak, by the complainant. Infact, there are some more statements which do not show the presence of the applicant at the spot. The statement of Baba Pawar, step brother of the deceased was recorded on 21st April, 2016. According to Baba Pawar, on 15th March, 2016, he had seen Deepak in the car, in which the applicant was also present alongwith other co-accused, at about 5:00/6:30 a.m. The said witness i.e. Baba Pawar is not only related to the deceased but is also staying in the same vicinity, where the complainant was staying. Admittedly, the said fact was not disclosed by

him, either to the complainant or any other person. This is the only material *qua* the applicant. Admittedly, the applicant had no motive to cause the death of Deepak. The applicant has no antecedents. Investigation is complete and charge-sheet is filed.

6. Considering the aforesaid, the application is allowed and the applicant is enlarged on bail on the following terms and conditions :

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount;
- (ii) The applicant shall attend the concerned Police Station on the first Saturday of every month between 10:00 a.m. to 11:00 a.m., till the conclusion of the trial;
- (iii) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (iv) The applicant shall inform his latest place of residence and

mobile contact number and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(v) The applicant to cooperate with the conduct of the trial;

(vi) The applicant shall file an undertaking in the trial Court with regard to clauses (ii) to (v), within two weeks of his release;

(vii) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

7. The application is accordingly disposed of.

8. 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.

9. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.