

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

CRIMINAL BAIL APPLICATION NO. 1006 of 2017

Mr. Ravi Baijnath Patva

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. K. S. Patil for the applicant.

Mr. Deepak Thakare, APP for the respondent-State.

CORAM : PRAKASH D. NAIK, J.

DATE : 29 JUNE 2017

P.C. :

1. This is an application for bail. The applicant is arrested in connection with C.R. No.I-155 of 2016 registered with Vasai Road Railway Police Station, Mumbai for the offences punishable under sections 302, 120B, 201 read with 34 of IPC. The applicant was arrested on 4 September, 2016 and since then he is in custody.

2. The prosecution case is that deceased Pavan Kumar Pandey was earlier working with Mahendra Pandey. He left the said employment and as a result of that Mahendra Pandey had sustained loss. Therefore, he had grudge against the deceased. It is alleged that Mahendra Pandey with the help others strangulated the deceased by

nylon rope and his body was thrown near railway track in one carton. The dead body of the deceased was found near track of Vasai Road Railway Station. Inquest panchanama indicated that there was injury on the throat of the deceased. There was evidence of ligature mark over neck and head injury on the deceased. The rope allegedly used for strangulating the deceased was seized at the instance of the co-accused under section 27 of Evidence Act. The investigating authority recorded the statement of witness Rajesh Agarwal on 10 September 2016 in which it is stated that he knows all the accused persons. On 1st September, 2016, at about 10.00 pm he witnessed that co-accused Rajesh Chavan was lifting a big carton on his shoulder and other accused Manish Zha, Mahendra, Anupam and the applicant were going behind him in suspicious circumstances. The co-accused Rajesh dropped the carton on the railway track from the protection wall and thereafter the accused left the said place. The investigating machinery also recorded statement of one Chandra Devadiga who is working as manager in the beer shop. In the said statement, it is stated that on 1 September, 2016 accused Manish Zha and Mahendra Pandey had purchased the beer bottles from him. It is also the prosecution case that the co-accused Manish Zha and Rajesh Chavan and the applicant used to work with Ashishkumar Pandey as delivery

boys. Ashishkumar Pandey is partner of the accused Mahendra Pandey. The statement of Ashishkumar Pandey shows that the accused Mahendra had a grudge against the deceased as they started separate business which appears to be motive for the said murder.

3. Learned advocate for the applicant submitted that the entire story of the prosecution is based on circumstantial evidence. There is no eye witness to the incident of murder. There is no direct evidence against the applicant. He further submitted that statement of Rajesh Agarwal at the most suggest that the applicant was found in the company of the co-accused while dumping carton which was purportedly the dead body of the deceased. Apart from that there is no evidence. He submitted that considering the said evidence as it is at the most charge under section 201 of the IPC can be attributed to the applicant.

4. Learned APP submitted that the accused Mahendra had animus against the deceased as he has left his company which resulted loss of the business of the said accused. He further submitted that there is circumstantial evidence which connects the accused with the said crime. He relied upon the statement of Rajesh Agarwal in support of his submission. He further submitted that there is recovery of nylon

rope from the co-accused Manish Zha. It is therefore submitted that there is sufficient evidence to connect the applicant with the said crime.

5. I have perused the FIR and the other documents. The prosecution case is that the deceased was working with accused Mahendra Pandey and since he had left the job, he had grudge against the deceased. Accused Mahendra Pandey is the cousin of the deceased. The evidence which is used against the applicant is the statement of Rajesh Agarwal. The said statement was recorded on 10 September, 2016. Taking the statement as it is, it refers to the applicant found in suspicious circumstances and was following the co-accused who was carrying carton in the railway track. Inference cannot be drawn that the applicant was involved in murder of the deceased on the basis of the said statement. There is no other evidence corroborating the involvement of applicant in the said crime. There are no criminal antecedents against him. In view of the aforesaid circumstances, the case for bail is made out.

:: ORDER ::

- (i) The applicant is directed to be released on bail in connection

with C.R. No. I-155 of 2016 registered with Vasai Road Railway Police Station on furnishing P.R. Bond in the sum of Rs.50,000/- (Rupees Fifty Thousand only.) with one or more sureties in the like amount.

- (ii) The applicant is directed to report Vasai Road Railway Police Station once in a week on every Friday between 5.00 pm to 7.00 pm till further orders.
- (iii) The applicant should not tamper with the evidence.
- (iv) Applicant stands disposed of.

[PRAKASH D. NAIK, J.]