

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1335 OF 2017**

Sakharam Janya Bhadange

...Applicant

Versus

The State of Maharashtra

...Respondent

Ms. Vrishali R. Raje for the Applicant

Ms. Rutuja Ambekar, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.
FRIDAY, 28th JULY, 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-26 of 2014 registered with the Talasari Police Station, Palghar, for the alleged offences punishable under Sections 201, 302, 379 r/w 34 of the Indian Penal Code.
3. Learned Counsel for the applicant states that the prosecution case rests entirely on circumstantial evidence and that there is no material to connect the applicant with the alleged offence. She submits that even the statement of Laxmibai Wadia on the point of last seen, does not show

that there was some quarrel or dispute between the deceased and the applicant. She submits that the recovery of the deceased's mobile phone, at the instance of the applicant is also doubtful, considering the timings mentioned therein. She further submits that when the applicant was arrested, it is evident that although the phone belonged to the applicant, the sim card belonged to some third person. She submits that the applicant is languishing in jail since 2014.

4. Learned A.P.P opposed the application. She submits that there are two witnesses who had last seen the deceased with the applicant i.e. Laxmibai Wadia and Vaishali Kondhari.

5. Perused the papers. The prosecution case rests on circumstantial evidence. The complainant is Annu Gimbal, wife of the deceased-Ranjeet Gimbal. Although, the complainant had initially lodged a complaint, against unknown persons, in her supplementary statement, the complainant has raised some suspicion on co-accused-Mulji. She has attributed motive to Mulji. As far as the applicant is concerned, there is evidence of last seen as against him. The statement of Laxmibai Wadia and

Vaishali Kondhari show that the applicant was last seen at around 7:30 p.m, in the company of the deceased. The supplementary statement of the complainant-Annu Gimbal shows that the applicant had called the deceased on his mobile on 10th February, 2014 at about 6:30 p.m. and had called him to meet him, pursuant to which, her husband (deceased) went to meet the applicant. The said statement also find corroboration in the statement of Tara, daughter of the deceased. Apart from the aforesaid, there is recovery of deceased's mobile at the instance of the applicant. The deceased's dead body was found on 11th February, 2014 at around 9:30 p.m. Whether or not, the recovery panchnama is genuine or doubtful, is a matter which will be considered by the trial Court. *Prima facie*, there is sufficient material to show the complicity of the applicant. The possibility of the applicant tampering with the witnesses, also cannot be ruled out in the peculiar facts of this case.

6. Considering the aforesaid, this is not a fit case to enlarge the applicant on bail. The application is accordingly rejected, however, since the applicant is in custody since 2014, it is necessary, in the interest of justice, to expedite the trial of the applicant.

7. Accordingly, the trial of the applicant is expedited. The learned Judge shall make an endeavour to conclude the trial as expeditiously as possible and preferably within nine months from the date of receipt of this order.

8. If, for no fault of the applicant, the trial does not conclude within the stipulated period, the applicant is granted liberty to file a fresh application seeking his enlargement on bail.

9. Application is disposed of accordingly, in the aforesaid terms.

10. 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.