

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

CRIMINAL BAIL APPLICATION NO.1351 OF 2017

Parshuram Narayan Patil ...Applicant

Versus

The State of Maharashtra ...Respondent

**WITH
CRIMINAL APPLICATION NO.698 OF 2017**

IN

CRIMINAL BAIL APPLICATION NO.1351 OF 2017

Tukaram Bhudhaji Rasal ...Intervener

In the matter between

Parshuram Narayan Patil ...Applicant

Versus

The State of Maharashtra ...Respondent

Mr. Pankaj Purway for the applicant.

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

Mr. Manoj Bhatt for the intervener.

PI Vilas Shende, Manpada Police Station present.

CORAM : PRAKASH D. NAIK, J.

DATE : 27 JULY, 2017

P.C. :

1. This is an application for bail. The applicant is arrested on 12th September, 2016 in connection with C.R. NO.I-454 of 2016 registered with Manpada Police Station, Dombivali, District Thane. The offences were registered under sections 302, 397, 120B, 414,

201 read with 34 of IPC as well as section 24 of Arms Act and section 37 and 135 of Maharashtra Police Act.

2. The FIR was lodged on 9th September, 2016 by one Rajesh Patil. It was stated in FIR that one person was lying dead in the vehicle. It was found that the person was assaulted by sharp weapon and he was murdered by some unknown persons. The FIR was lodged for offence under section 302 of IPC.

3. It is the case of prosecution that there was illicit relation between the deceased and the wife of accused no.1. This appears to be motive for commission of crime. It is alleged that accused no.1 and 2 were instrumental in committing murder. It is further alleged that the applicant was part of conspiracy and knife was being handed over by applicant. It is also alleged that after recording memorandum statement under section 27 of accused no.1, the knife and the articles belonging to the deceased were recovered from farm of applicant.

4. Learned advocate for the applicant submitted that there is no evidence to connect the applicant in the alleged crime. The applicant is aged about 76 years and he is in custody from 12th September,

2016. It is submitted that only evidence which is being used against the applicant is that accused no.1 has made statement that the knife which is used in the commission of crime is being handed over to the applicant and which was hidden in his farm and also that the belonging of the deceased were also handed over to the applicant. The said articles and the weapon is being recovered on the basis of the statement of accused no.1. It is submitted that this evidence is not sufficient to connect the applicant with conspiracy or the offence of murder. There is no other evidence to corroborate the involvement of the applicant in the alleged crime. It is, therefore, submitted that the applicant may be released on bail.

5. Learned APP and the learned counsel for the intervener opposed the application for grant of bail. It is submitted that there was conspiracy to kill the deceased. The motive was that the deceased was having affair with wife of accused no.1. It is submitted that conspiracy was hatched by the co-accused and the applicant and the knife was also handed over by the applicant. The co-accused had taken blessing of applicant before committing the crime. There was recovery at the instance of applicant. Ornaments and the knife which was being handed over to the applicant, has been recovered from the

farm of the applicant. It is submitted that the applicant is involved in the serious crime and bail should be refused.

6. I have perused the chargesheet. It is apparent that except the memorandum statement of accused no.1 leading to discovery of articles belonging to the deceased and the knife purportedly used in the commission of crime, there is no cogent evidence to show involvement of applicant. The said recovery is not sufficient to establish that the applicant is involved in the commission of murder. There is no evidence that the applicant is involved in conspiracy. The CDR records which are being collected by the investigating officer refers to the conversation between accused no.1 and accused no.2. The prosecution case that the knife was handed over by applicant to the other accused is based on the statement of the co-accused which is recorded during the course of investigation which has no sanctity of law. The same can not be used against the applicant. The investigation is completed and the chargesheet has been filed. The applicant has been in custody since 12th September, 2016. The applicant is aged about 76 years old. In these circumstances, case for bail is made out. Hence, I pass following order;

:: ORDER ::

- (i) Bail Application No.1351 of 2017 is allowed.
- (ii) The applicant is directed to be released on bail in connection with C.R. NO.I-454 of 2016 registered with Manpada Police Station, Dombivali, District Thane on furnishing P.R. Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand only.) with one or more sureties in the like amount.
- (iii) The applicant shall attend the concerned police station once in a month on the first day of month between 11.00 am to 1.00 pm till further order.
- (iv) It is clarified that observations made in this order is only for considering application for grant of bail, the trial Court shall not be influenced by the same.
- (v) Criminal Bail Application No.1351 of 2017 stands disposed of.
- (vi) In view of disposal of Bail Application, Criminal Application No.698 of 2017 stands disposed of.

[PRAKASH D. NAIK, J.]