

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

CRIMINAL BAIL APPLICATION NO.1710 OF 2017

Mr. Arun Balaso Chavan

... Applicant

vs.

The State of Maharashtra

... Respondent

.....

Mr. Vikramsinh Yadav for the Applicant.

Mr. S. S. Hulke, APP for the State.

CORAM : T. V. NALAWADE, J.

DATE : 28.08.2017.

P.C.:

1. The application is filed for bail in C.R. No. 79 of 2016 registered with Shirala Police Station, District - Sangli for the offences punishable under Section 302 and 201 of the Indian Penal Code. Charge sheet is already filed and so papers of investigation were available for perusal. Both the sides are heard.

2. The crime is registered on the basis of report given by brother of deceased. Deceased Prakash used to sleep on the terrace of house of one Shamrao Chavan. As usual he went to the house on the night of 08.12.2016. On next morning he did not return to home and so inquiry was made. Inquiry revealed that on that night Prakash was not there on the terrace and he was not sleeping there on that night. Missing report was given. In missing report also suspicion was shown as against the present applicant.

3. The dead body of Prakash was found on 11.12.2016 in the vicinity of village, in the village Aundhi. Prakash was murdered by taking him away, to that place.

4. During investigation following kind of material is collected

against the applicant:-

- i) The mobile handset of deceased is recovered on the basis of statement given by present applicant under Section 27 of the Evidence Act and under the same statement one iron road bar used as weapon is also recovered. The statement was made on 14.12.2016 and applicant came to be arrested immediately after receipt of information against him.
- ii) CDR record collected shows that the applicant had contacted the deceased on that night. There is a statement of a witnesses showing that on that night at about 9.30.pm one person had given call to deceased on phone and after that Prakash had left the house of aforesaid Shamrao Chavan and he had not returned back.
- iii) The statement of one witness Kisan Chavan shows that on the night between 08.12.2016 and 09.12.2016 he had seen at about 10.00 pm present applicant in the company of deceased and they together were proceeding towards Karmade.
- (iv) There is a material collected on motive which was the quarrel which had taken place between the applicant and deceased as deceased was taunting present applicant due to the marriage of his father with two ladies.

5. The learned counsel for the applicant submitted that there are inconsistencies in the first statements given by the witnesses and supplementary statements and there are also inconsistency between statements if they are compared with each other. This contention cannot be accepted and considered at this stage. The learned counsel submitted that in the matter motive is not that strong and so

circumstantial evidence collected can be of no use. This submission is also not acceptable. Motive is relevant when the case rests on circumstantial evidence but due to absence of motive only the accused cannot get acquittal.

6. There is a material as quoted above against the present applicant. It can be said that he planned the murder and after taking the deceased away from the residential place he committed the offence. In view of this conduct of the applicant this Court holds that there is a possibility of tampering with the witnesses from the present applicant.

7. This court holds that discretionary relief cannot be given in favour of the person like present applicant. The application stand rejected.

(T. V. NALAWADE, J.)