

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.2363 OF 2017

RAVI CHHAGAN DHUMAL)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Prasanna Shahane, Advocate for the Applicant.

Ms. Anamika Malhotra, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 17th NOVEMBER 2017

P.C. :

1 The applicant/accused in Crime No.I-172 of 2016
registered with Hill Line Police Station, for the offence punishable
under Section 302 read with 34 of the Indian Penal Code (IPC), by
this application, is seeking his release on bail during pendency of
his trial.

2 Heard the learned advocate appearing for the applicant/accused. He drew my attention to the statement of Suryakant Gujale and argued that this witness has stated that it was co-accused Mahesh who had taken the deceased with him and the role attributed to the present applicant/accused is that of only following co-accused named Mahesh. The incident was not seen by anybody. The learned advocate further placed reliance on confessional statement of co-accused Mahesh recorded by police to point out that Mahesh has confessed that he had hit the deceased by means of a stone. With this, the learned advocate argued that the applicant/accused has not played any overt act in the crime in question. He, therefore, seeks release of the present applicant/accused on bail.

3 The learned APP opposed the application by pointing out statement of witnesses reflecting the theory of last seen together and argued that no case for bail is made out.

4 I have carefully considered the rival submissions and perused the charge-sheet.

5 The crime in question is registered on the basis of the report lodged by Manoj Singh Chouhan, Assistant Police Inspector, on 17th May 2016 on finding an unidentified dead body with wounds thereon. During the course of investigation, statement of Manisha Nandkumar Chavan – wife of the deceased Nandkumar Chavan, came to be recorded, which shows that deceased Nandkumar had left her Company on 15th May 2016.

6 Statement of Suresh Dhotre shows that on 16th May 2016 in the night intervening 16th May and 17th May 2016, co-accused Mahesh was taking the deceased on his motorcycle and present applicant/accused Ravi Dhumal was also accompanying them. Suresh Dhotre has stated that Mahesh as well as the present applicant/accused were quarreling with the person to whom they were taking with them. Further statement of Suresh

Dhotre shows that the person who was taken by them in the compound of the Rationing Office is the deceased. This statement prima facie shows that in the night intervening 16th May 2016 and 17th May 2016, deceased Nandkumar Chavan was in Company of the present applicant/accused as well as co-accused Mahesh. Statement of Ankush Jadyal shows that in the night intervening 16th May 2016 and 17th May 2016, both co-accused Mahesh and the present applicant/accused Ravi came out of the compound of the Rationing Office at about 00.30 a.m. on 17th May 2016 in a hurried manner and in that process, they suffered a fall from the motorcycle as the motorcycle brushed the other vehicle. Statement of Mangal Sable also shows that in the night intervening 16th May 2016 and 17th May 2016, the deceased was in the company of the present applicant/accused and co-accused Mahesh. The dead body of deceased was found within hours thereafter in the morning hours of 17th May 2016.

7 Confessional statement made by co-accused cannot be read in evidence to infer guilt of the co-accused and innocence of

the present applicant/accused. Considering the evidence available against the applicant/accused, no case for bail is made out.

Hence, the order :

ORDER

The application is rejected.

(A. M. BADAR, J.)