

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2644 OF 2016**

Ajay Kiran Rathod

...Applicant

Versus

The State of Maharashtra

...Respondent

Ms. Anjali Patil for the Applicant

Ms. S. S. Kaushik, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.
TUESDAY, 18th APRIL, 2017

P.C. :

1. Heard learned Counsel for the applicant and the learned A.P.P for the State.

2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 503 of 2014 registered with the MIDC Bhosari Police Station, Pune, for the alleged offences punishable under Sections 363, 364, 302, 201, 120B r/w 34 of the Indian Penal Code.

3. Learned Counsel for the applicant submits that there is no material to connect the applicant with the alleged offence. She submits that the only material against the applicant is the statement of Rohit Satish

Khatate, which was recorded after more than a month of the incident i.e. on 28th April, 2016. She submitted that the said statement is with regard to an alleged motive as against the deceased. She submits that there are no antecedents against the applicant and that the investigation is complete and charge-sheet is filed.

4. Learned A.P.P submits that apart from the statement of Rohit Satish Khatate which was recorded on 28th April, 2016 alleging motive against the applicant and others, there is no material against the applicant. She does not dispute the fact that the applicant has no antecedents.

5. Perused the papers. The incident in question took place on 9th March, 2016. On 10th March, 2016, an FIR was lodged as against unknown persons. The prosecution case rests entirely on circumstantial evidence. The applicant was arrested on suspicion on 12th March, 2016. On 28th April, 2016, Rohit Khatate's statement was recorded, in which, he has alleged motive as against the applicant and other co-accused. There is no recovery of any weapon or articles *qua* the applicant. At this stage, there is nothing in the prosecution case to indicate that the applicant was present when the

deceased-Prathamesh was done to death. The possibility of the applicant assisting the principal accused in causing disappearance of the evidence cannot be ruled out. There are no antecedents against the applicant. The investigation is complete and charge-sheet is filed. Considering the aforesaid, the application is allowed and the applicant is enlarged on bail on the following terms and conditions :

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 25,000/- with one or two solvent sureties in the like amount;
- (ii) The applicant shall not enter the jurisdiction of MIDC Bhosari Police Station and Village Moshi till the conclusion of the trial;
- (iii) The applicant shall report to the concerned Police Station on the first Monday of every month between 10:00 a.m. to 11:00 a.m. till the framing of charge;
- (iv) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(v) The applicant shall inform his latest place of residence and mobile contact number and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(vi) The applicant to cooperate with the conduct of the trial;

(vii) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

6. The application is accordingly disposed of.

7. 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.

8. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.