

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

BAIL APPLICATION No. 1523 of 2018.

WITH

CRIMINAL APPLICATION No. 803 of 2018

Prakash Vasant Kokare ..Applicant.

Vs

State of Maharashtra ..Respondent.

Mr. Kedar J. Patil in BA No. 1523/2018.

Mr. Tejas Hilage for Intervener/Applicant in APPP/803/2018.

Mr. Rajan Salvi, APP for the State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATE : 4TH SEPTEMBER, 2018

P.C:-

1) This is an application under Section 439 of Criminal Procedure Code, filed by the aforesaid applicant who is facing trials in Sessions Case No. 7 of 2018 on the file of learned Additional Sessions Judge, at Ichalkaranji. The said case arises from C.R.No. 349 of 2017 registered at Shivajinagar Police Station, for offence punishable under Sections 302, 201 read with section 34 of Indian Penal Code, pursuant to the first information report lodged by Raju Bajrang Chaure.

2) Heard Mr. Kedar Patil, learned counsel for the applicant, Mr Rajan Salvi, learned APP for the State and Mr Tejas, learned Advocate appearing for the Intervener. Perused

the records and considered the submissions advanced by the learned Counsels for the respective parties.

3) Perusal of the first information report prima facie reveals that Smt. Chhaya Maske, the mother-in-law of the first informant had given loan of Rs.2 lakhs to the co-accused Shashikant Bhau Bhosale. Said Shashikant Bhosale had refused to repay the said loan. Subsequently, he had executed a document on hundred rupees stamp paper, wherein he had acknowledged his liability to repay the amount of Rs.2 lakhs to said Smt.Chhaya Maske. Since the co-accused Shashikant Bhosale refused to repay the loan amount, there used to be constant altercations between him and said Chhaya. The first information report further indicates that said Chhaya went missing since 9th October, 2017. Therefore, the first informant lodged a missing report on 11th October, 2017. On 28th October, 2017 one of his acquaintance Shri Revnath Kadam informed him that the co-accused had called said Chhaya to a building under construction (locally known as Bhut Banglow) situated at Ichalkaranji and that said Shashikant Bhosale with the help of the co-accused Yuvraj had committed murder of Chhaya and that thereafter with the help of the applicant and Yuvraj they had disposed of the dead body

of said Chhaya.

4) The statement of witness Somnath Patil prima facie reveals that on 9th October, 2017 at about 9:30 p.m., he had seen the applicant standing outside his house. While he was talking to the applicant they heard cries of one lady and thereafter he along with the applicant proceeded towards said Bhut Banglow. This witness claims that they had seen the dead body of a lady lying in the bushes in an open space near the said banglow. He also claims that he had seen Shashikant Bhosale at the place of the incident. The statement of Dnyaneshwar @ Pintu Madhukar also prima facie reveals that on 9th October, 2017 at about 9:30 p.m. the applicant was standing outside his house. The applicant had told him that a bull had attacked the co-accused. Thereafter, the applicant had called the co-accused Shashikant Bhosale asked him where he was. Soon thereafter, said Shashikant Bhosale came towards them and took them to Shanti Bar (hotel) and told them that he had committed murder of Chhaya Maske.

5) The statements of the aforesaid witnesses prima facie reveal that at the time of the incident, the applicant was standing outside his house. The statements of these witnesses

do not prima facie indicate that the applicant was involved in committing the actual crime or that he was aware that the co-accused had abducted Chhaya and committed her murder. On the contrary, the statements of the aforesaid witnesses indicate that the applicant had reached the scene of offence after said Chhaya was murdered. His role was only to dispose of the body. The material on record prima facie shows that the applicant was involved in committing an offence punishable under Section 201 of the IPC which is punishable with maximum sentence of seven years.

6) The applicant is in custody since 29th October, 2017. The investigation is already completed and the charge-sheet is also filed in the present case. Hence, the presence of the applicant is not required in custody for any other purpose. The applicant is a permanent resident of Ichalkaranji, District Kolhapur. Hence, there are no chances of him fleeing from justice.

7) Considering the above facts and circumstances, the applicant is entitled for bail on the the following terms and conditions.

(i) Application is allowed.

(ii) The applicant be released on bail in Sessions Case No. 7 of 2018 pending on the file of learned Additional Sessions Judge, at Ichalkaranji. on his furnishing bail bonds of Rs. 50, 000/- with one or two sureties in the like amount to the satisfaction of the learned Additional Sessions Judge, Ichalkaranji.

(iii) The applicant shall report to the Investigating Officer on first Monday of every month till conclusion of the trial.

(iv) The applicant shall furnish his permanent and temporary addresses, if any, and his contact details to the Investigation Officer.

(v) The applicant shall not change his residential address without prior intimation to the Investigation Officer.

(vi) The applicant shall not interfere with the complainant/first informant, other witnesses and shall not tamper with the evidence in any manner.

8) Needless to state that the above observations is only for the purpose of deciding this bail application and shall not be construed as expression of any opinion on the merits of the case.

9) In view of the above, Criminal Application No. 803 of 2018 for intervention stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)