

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

BAIL APPLICATION NO. 457 OF 2018

Sunil Rangnath Kamble

..Applicant

v/s.

The State of Maharashtra .

..Respondents

Mrs. Anjali patil I/b. Mr. Ajinkya Badar for the Applicant.

Mr. S.R.Agarkar, APP for the State.

PSI Bhimgonda Patil, Kamshet Police Station present.

API Ganesh Kshirsagar, LCB Pune Rural present.

CORAM : ANUJA PRABHUDESSAI,J.

DATED : OCTOBER 10, 2018.

P.C.

1. This is an application filed under Section 439 Cr.P.C. by the aforesaid applicant, who is facing trial in SC/750/2017 pending before the Sessions Judge, Pune. The said case arises from Crime No. 440 of 2017 registered at Belwandi Police Station for the offences under Section 363, 302, 201 r/w. 34 of the Indian Penal Code.

2. Mrs. Patil, the learned Counsel for the applicant contends that there is no prima facie material to show the involvement of the

applicant in commission of the crime. She has submitted that the applicant has been implicated merely on the basis of suspicion. The learned APP concedes that the only material against the applicant is the statement of one Nitin Munot and Avinash Muzgude.

3. I have perused the records and considered the submissions advanced by the learned Counsels for the respective parties.

4. The records prima facie reveal that on 15th May, 2016 at about 6.30 p.m. Suresh Baburao Muthe (deceased) had received a phone call. He had left the house stating that he was proceeding towards the petrol pump at Nhavra. Said Suresh Muthe did not return home. Hence, his wife Pushpa Muthe lodged a missing report on 16th May, 2017.

5. The record prima facie reveals that on 17th May, 2017 the body of deceased Suresh Muthe was found in a canal at Kukdi, Visapur. The inquest panchanama was conducted and the body was sent for post-mortem. The post-mortem report states that the death of Suresh Muthe was due to drowning. On 9th June, 2017 the widow of said Suresh Muthe lodged an FIR wherein she had stated that there was a property dispute between her husband and his step mother Pushpa.

Her husband had filed a civil suit, in which the Court had held that her husband was entitled for two shares, and that her father-in-law and step mother-in-law were entitled for one share each. She claims that the step brother of her husband was not happy with the said decision and that he was claiming equal right to the property.

6. The first informant had further stated that her husband was also taking contracts of fabrication work and that he had employed Nana Thange and his brother-in-law Sunil Kamble, the applicant herein. She had stated that there used to be constant quarrels between her husband,, Nana Thange and the applicant herein. She had stated that her husband had informed her that there was danger to his life at the hands of his step brother Ganesh, Nana Thange and the applicant herein. She therefore suspected that the above persons were involved in committing murder of her husband.

7. The statement of Nitin Munod, prima facie reveals that on 15th May, 2017 at about 8.00 p.m. he had received a phone call from Suresh Muthe. He had stated that from the manner in which Suresh Muthe was speaking, it was evident that he was under the influence of alcohol. He stated that he had told Suresh Muthe to give the

contract of sliding windows to the applicant herein.

8. The statement of Avinash Muzgode` prima facile reveals that he owns a vehicle bearing No.MH 09 BB 9547. On 14th May, 2017 he had received a phone call from Jalindar Giri stating that one of his friends needed a car. On the same day, the applicant also phoned him and told him that he requires a car to go to Aurangabad. He has stated that said Jalindar Giri and the applicant came to his house on 15th May, 2017 at about 12 p.m. and took the said car. They had assured to return the car by 8 p.m. However, they did not return the car on 15th May, 2017. On 16th May, 2017 at about 9.30 a.m. said Jalindar Giri and Sunil kamble came to his house to return the car. He claims that they had told him that they could not return the car earlier as they had reached home late.

9. As stated earlier, the first informant had implicated the applicant herein only on the basis of suspicion. The statement of Nitin Munot does not implicate the applicant but only indicates that he had received a phone call from the deceased on 15th May, 2017 at about 8 p.m. and that he had told him to give contract of sliding windows to the applicant. The statement of this witness does not

prima facie indicate that the applicant was present along with the deceased when he had received the phone call from the deceased. The statement per se does not prima facie implicate the applicant in any manner. The statement of Avinash Muzgude prima facie reveals that the applicant and one Jalindar Giri had taken his car to go to Aurangabad. There is no prima facie material to indicate that the applicant had not used the said car to go to Aurangabad and that the said car was used for commission of the crime .

10. The aforesaid circumstances, in my considered view, do not prima facie indicate involvement of the applicant in the said crime. The learned APP concedes that apart from the said two statements there is no other prima facie material to show the involvement of the applicant in commission of the said crime. The material on record does not prima facie disclose involvement of the applicant in commission of the crime. Prima facie, there are no reasonable grounds to believe that the applicant is involved in commission of the crime which is punishable with death or imprisonment for life.

11. The learned APP submits that the investigation is concluded and chargesheet is filed. The applicant is a permanent resident of

Ahmednagar and there are no chances of the applicant absconding or thwarting the course of justice. The applicant has no criminal antecedents.

12. Considering all the above facts and circumstances, the application is allowed on the following terms and conditions :-

- (i) The applicant who is facing trial in Sessions Case No.750 of 2017 , pending before the Sessions Judge, Pune is ordered to be released on bail on furnishing P.R. bond of Rs.50,000/- (Rupees Fifty Thousand Only) with one or two solvent sureties in the like amount;
- (ii) The applicant shall report to the Investigating Officer or the Senior P.I. of Belwandi Police Station on the first Monday of every month until further orders;
- (iii) The applicant shall provide his permanent as well as temporary address, if any, and his contact details to the Investigating Officer and in the bail bond;
- (iv) The applicant shall not change his residential address without prior intimation to the Investigation Officer.

(ANUJA PRABHUDESSAI, J.)