

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

CRIMINAL BAIL APPLICATION NO.1898 OF 2018

Vinod Rajkumar Paswan & Anr.	.. Applicants
Vs.	
State of Maharashtra	.. Respondent

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Mr.F.N. Momin a/w. Mr.Gautam Jain, Advocate for the Applicants.
Mr.Y.Y. Dabke, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATED : OCTOBER 11, 2018.

P.C. :

This is an application for bail in C.R.No.I-111 of 2016, registered with Nizampura Police station, Bhiwandi, District-Thane, for the offences punishable under Sections 302 and 201 of Indian Penal Code (“IPC”, for short). Applicant was arrested on 11th June, 2017, and, 23rd June, 2017, respectively.

2 The prosecution case is that on 10th November, 2013, on receipt of information from one Mahendra Mali about the foul smell coming from the house, dead body was found lying in the premises and in pursuant to that ADR No.49 of 2013, was registered under Section 174 of Code of Criminal Procedure.

It was also found that other inmates of the house were not available. Applicant and another accused Kaliprasad Rajtaram Paswan were arrested subsequently. Thereafter, the investigation was completed and charge-sheet has been filed.

3 The primary ground for granting bail made by the applicants is that the co-accused who was similarly placed has been granted bail by this Court and the applicants, are entitled for parity. The said co-accused, namely, Kaliprasad Rajtaram Paswan, was allegedly one of the person who was occupying the premises with the other accused. The said accused was also arrested subsequently. This Court, vide order dated 23rd July, 2018, passed in Bail Application No.399 of 2018, granted bail to the said accused. On perusal of the said order, it is apparent that the case of the applicants cannot be distinguished from the co-accused who has been granted bail by this Court.

4 Learned APP submitted that the accused were absconding after the murder of the said deceased. It is also submitted that they were arrested in 2017. Although, the incident had occurred in the year 2013. It is submitted that the applicants were residing at Uttar Pradesh with a view to evade the arrest.

If they are not involved in the crime, there was no reason to abscond. It is submitted that the accused was in the company of the deceased when the incident had occurred and the cause of the death and the circumstances in which the deceased had killed is required to be extinguished by them. Applicants may not be available for trial.

5 As noted hereinabove, the incident is of 10th November, 2013. Initially ADR was recorded. It is the prosecution case that several persons were residing alongwith the accused in the premises where the dead body of the deceased was found. As to who has killed the deceased is not established. This Court while granting bail to the co-accused who was also one of the inmate of the premises and allegedly committed murder has observed that there were about 8 accused in the crime. All used to reside in the same premises i.e. place of offence and the deceased was addicted to liquor and used to visit the room of the accused and create ruckus. He used to cause harassment to the accused, and, therefore, allegedly the accused had assaulted him. It was observed that *prima facie* the circumstance against the said accused is that he was one of the occupant of the room where the dead body of the deceased was found. The said room

was also occupied by several other accused and there is no other circumstance on record to show that the crime was committed by the said accused. In the circumstances, he was granted bail. Learned APP tried to distinguish the case of the applicants by showing that accused had shown the place of incident. The said statement was belatedly made after a period of about 3 years. It is also pertinent to note that showing the place of incident may not be a significant factor, as it is the prosecution case that all the accused were residing in the same premises where the dead body of the deceased was found. Taking into consideration, the aforesaid factors, applicants are entitled for bail.

6 Hence, I pass the following order:

:: ORDER ::

- (i) Bail Application No.1898 of 2018, is allowed;
- (ii) Applicants are directed to be released on bail in connection with C.R. No.I-111 of 2016, registered with Nizampura Police Station, Bhiwandi, District-Thane, on their furnishing P.R. Bond in the sum of Rs.25,000/-, each, with

one or two solvent local sureties in the like amount;

(iii) After their release from jail, applicants shall report Nizampura Police Station, Bhiwandi, District-Thane, on every first Monday of the month between 11:00 a.m. to 01:00 p.m., till further orders;

(iv) Applicants shall attend all the dates before the trial Court, unless precluded by medical reasons;

(v) Applicants shall not tamper with the evidence and/or pressurize the prosecution witness;

(vi) Bail Application No.1898 of 2018, stands disposed of.

(PRAKASH D. NAIK, J.)