

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

CRIMINAL BAIL APPLICATION NO. 1991 OF 2018

Ankit Sunil Bhandari

... Applicant

Vs.

The State of Maharashtra

... Respondent

...

Mr. Ajit M Savagave for the applicant.

Mrs. G.P. Mulekar, APP for the Respondent-State.

Mr. K.D. Sonawane, PSI, Kalwa Police Station is present.

...

CORAM : PRAKASH D. NAIK, J.

DATE : 20th DECEMBER, 2018.

P.C.

1. This is an application for bail in connection with CR No. I-362 of 2015 registered with Kalwa Police Station, Thane. The offences were registered under Section 302, 201, 364, 367 read with 34 of Indian Penal Code and Section 37(1) and 135 of Maharashtra Police Act, 1951.

2. It is the case of the prosecution that the accused No.1 and 2 had committed murder of victim Venkatesh alias Nani Shriniwas Pudali. Applicant is accused No.2. Other accused had allegedly abated accused No.1 and 2 to destroy the evidence. There was previous enmity between the accused No.1 and the deceased. It is alleged that deceased was abducted and subsequently murdered.

After the murder of the deceased, the accused tried to destroy the dead body on the hill top by carrying dead body on motor-cycle of accused No.3 and the same was buried on the hill. The accused also destroyed the cloths of the deceased. The applicant was arrested on 29th September, 2015. Chargesheet has been filed.

3. Learned counsel for the applicant submits that there is no evidence to involve the applicant in the crime. Statements of the two witnesses were recorded during the investigation. They have stated that they had seen the deceased with two unknown persons. There is no identification parade identifying the applicant as one of the person who was last seen with the deceased. It is submitted that although there is recovery of weapon at the instance of the applicant. CA report with regards to blood stains does not support the prosecution. The blood group is inconclusive. First Information Report was lodged against the unknown persons. The complainant did not suspect the involvement of the applicant at the initial stage. Co-accused are granted bail by this Court.

4. Learned APP submitted that there was motive to commit murder of the deceased. There is evidence in support of the motive with regards to previous enmity. There was previous dispute between the accused and the deceased. There is recovery

of knife at the instance of the applicant. There is also recovery of articles used for destroying the evidence from the applicant.

5. On perusal of the First Information Report and other documents which forms part of chargesheet, it is clear that FIR was lodged against the unknown persons. The statement of two witnesses were recorded who have stated that the deceased was seen in company with unknown person. There is no evidence to show that the applicant was one of the persons who was in company with the deceased. The statement of the relatives of the deceased were recorded to indicate that there was motive for the accused to commit crime. However while lodging the FIR when the deceased was missing. No suspicion was raised against applicant. CA report with regards to the weapon recovered at the instance of the applicant do not support the prosecution case. There is alleged recovery of articles allegedly used for destroying the evidence. Only on the basis of such evidence, the applicant cannot be subjected to further custody. There are no criminal antecedents against the applicant. Applicant is in custody from 29th September, 2015. Other accused who were attributed the charge of destroying the evidence are granted bail by this Court. In the circumstance, case for grant of bail is made out. Hence, I

pass the following order.

ORDER

- i. Criminal Bail Application is allowed;
- ii. Applicant is directed to be released on bail in connection with C.R. No.362 of 2015 registered with Kalwa Police Station on furnishing PR bond in the sum of Rs.50,000/- with one or more sureties in the like amount;
- iii. Applicant shall report the concerned police station once in a month on first Saturday of every month between 11 a.m. to 1 p.m. till further orders;
- iv. Applicant shall not tamper with the prosecution witnesses;
- v. Applicant shall attend the dates of hearing before the Trial Court, unless exempted by the Court;
- vi. Criminal Bail Application stands disposed off.

(PRAKASH D. NAIK, J.)