

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

BAIL APPLICATION NO. 2379 OF 2018

Amit @ Koytya Rajendra Pawar & Anr.Applicants

V/s.

The State of MaharashtraRespondent

Mr. Ghanasham S. Jadhav for the applicants.

Ms. J.S. Lohokare, APP for the State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED: 17th SEPTEMBER, 2018.

P.C.:

. This is an application for bail under Section 439 of Criminal Procedure Code filed by the aforesaid applicants, who have been arrested in C.R.No.182/2018 registered at Baramati City Police Station, District Pune for offences punishable under sections 302, 201 of the Indian Penal Code.

2. Mr. Ghanasham Jadhav, the learned counsel for the applicant submits that apart from the confessional statement before the police, which is not admissible in law, there is absolutely no material on record to show the involvement of the applicant in committing the said crime. Refuting the arguments of the learned counsel for the applicant, Mrs. J.S. Lohokare, learned APP submits that the statement of Dada

Dharwad shows that the applicant/Amit Pawar was in company of the deceased on 07/04/2018 at about 05:30 p.m. Ms. J.S. Lohokare, learned APP further submits that the statement of Mahesh Komne indicates that the applicant/Amit Pawar was using his cell phone No.9960891900. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties.

3. The records *prima facie* reveal that on 16/04/2018, a dead body of a male person was seen floating in Nira canal near Teen Hatti Chowk, Baramati. The said dead body was identified as that of Vishal Kesar. Pursuant to the first information report lodged by Sunil Gaikwad, PSI, Baramati Police Station, the aforesaid crime came to be registered against an unknown person.

4. In the course of the investigation, the applicants and the co-accused/ Suraj Madne came to be arrested. The statement of Dada Dharwad indicates that the deceased was seen in the company of the applicant on 07/04/2018. It is to be noted that the alleged incident according to the prosecution occurred on 12/04/2018. There is considerable time gap between the event of the applicant having been

last seen with the deceased. In the absence of *prima facie* material to indicate that the applicant was seen in close proximity of place, it is difficult to place reliance on such circumstances.

5. I have also gone through the statement of Mahesh Komne. His statement only indicates that the Amit/applicant owed some money to the witness, in view of which the witness had taken the mobile of the Amit/applicant and given him his own mobile for temporary use. The witness has stated that since the applicant/Amit had not returned the money, he had taken back both the mobile phones. The aforesaid statement does not *prima facie* link the applicant with the crime. The learned APP has not been able to point out any other circumstances to link the applicant with the crime.

6. Considering the aforesaid facts and circumstances, this is a fit case for grant of bail. Hence, Bail Application is allowed on following terms and conditions :-

(a) The applicant who was arrested in C.R.No.182/2018 registered with Baramati City Police Station, Dist. Pune is ordered to be released on bail on furnishing bail bonds of Rs.50,000/- (Rupees Fifty Thousand only) with one or two solvent sureties in the like amount.

- (b) The applicant shall report to the Investigation Officer on 1st Monday of every month until further orders.
- (c) The applicant shall furnish his permanent address and temporary address, if any, and his contact details to the Investigation Officer.
- (d) The applicant shall not change his residential address without prior intimation to the Investigation Officer.
- (e) The applicant shall not interfere with the witnesses in any manner.

(SMT. ANUJA PRABHUDESSAI, J.)