

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

CRIMINAL BAIL APPLICATION NO.2340 OF 2017

Ganesh Nivrutti Saste

... Applicant

Vs

The State of Maharashtra

... Respondent

Mr. Aniket Nikam i/b. Aashish Satpute for the Applicant.

Mr. Vinod Chate, APP, for the Respondent-State.

Mr. V. S. Mali, ASI, MIDC Bhosari Police Station, present in Court.

CORAM : REVATI MOHITE DERE, J.

DATE : 06.02.2018

P.C. :

1. Heard learned counsel for the parties . This is the second bail application preferred by the Applicant. The Applicant's first bail application i.e. Bail Application No.533/2017 was dismissed as withdrawn.

2. Learned counsel for the Applicant submitted that co-accused Kiran Chandrakant Gaikwad, Sudarshan Yashwant Aagleme, Ashish Anil Shah and Prathmesh Gautam Waghmare have been enlarged on bail by this Court. He submitted that the only statement as against the Applicant, is the statement of Rajendra @ Deepak Gosavi, recorded belatedly i.e. on 20.04.2016, after more than a month, with regard to an alleged conspiracy hatched by the Applicant and others. He further submitted

that the alleged recovery of blood stain clothes at the applicant's instance, is also doubtful, inasmuch as, the deceased had not sustained any bleeding injuries. He further submitted that the Applicant is a young boy with no antecedents and in the facts, the Applicant be enlarged on bail.

3. The learned APP opposed the application. He submitted that there is no change of circumstance, pursuant to the order of dismissal of the Applicant's first bail application on 19.06.2017. He submitted that the Applicant's role is distinct from that of Kiran Gaikwad, Sudarshan Aagleme, Ashish Shah and Prathmesh Waghmare, who have been enlarged on bail by this Court. Learned APP, however, does not dispute the fact, that the Applicant has no antecedents.

4. The Applicant is seeking bail in connection with CR. No.73/2016 registered with the MIDC Bhosri Police Station, Pune, for the alleged offences punishable under Sections 363, 364, 302, 201 and 120 B of the Indian Penal Code.

5. According to the prosecution, the incident took place in the intervening night of 9.3.2016 and 10.3.2016. The complainant-Ajinath Manik Pagare, has alleged that on 09.03.2016, his son Prathamesh Pagare (deceased) had been to Urs at Village Moshi alongwith his friend Pappu Moholkar and that he had returned home at about 10 pm; and that when

Prathamesh received a call from some person, he told the caller that he would meet him on the next date, in the morning. According to the complainant, when his wife inquired with Prathamesh, he told her that some boys had come outside his house and therefore, she should speak softly. After sometime, Prathamesh locked the house from outside and went alongwith his friends. As Prathamesh did not return home, the complainant inquired with his friends about the whereabouts of his son. As the complainant felt that his son was abducted, he lodged a report with the MIDC Bhosari Police Station, Pune on 10.03.2016 as against unknown persons for the offence punishable under Section 363 of the IPC.

6. On 12.03.2016, one Dheeraj Kudale was arrested on the ground of suspicion, as he used to have frequent quarrels with Prathamesh. It also transpired that Dheeraj's sister was in love with Prathamesh, and as a result of the same, Prathamesh was being threatened with dire consequences, by Dheeraj and his friends. During investigation, Dheeraj is alleged to have admitted that he alongwith Ajay Rathod had caused the homicidal death of Prathamesh. On 12.03.2016, the parents of Prathmesh were called to Vadgaon near the bank of River Bhima, from where Prathamesh's body was pulled out from the water. The dead body of Prathamesh was discovered, at the instance of Dheeraj,

who admitted that he alongwith co-accused Ajay Rathod has caused the homicidal death of Prathamesh and had carried the same on a motor cycle and had thrown it in Bhima river. As far as recovery of blood stained clothes at the instance of the applicant, is concerned, it appears that the deceased Prathamesh had not sustained any bleeding injuries and hence the finding of blood stains on the Applicant's clothes, *prima facie*, appears to be doubtful. The same is also observed in the Order dated 14.12.2016 passed by this Court, whilst granting bail to Kiran Chandrakant Gaikwad and two others. It appears that the only allegation, as against the Applicant, is the statement of Rajendra Gosavi, whose statement was recorded belatedly on 20.04.2016, wherein, he is alleged to have heard the Applicant and other co-accused stating, that they should call Bhayya Pagare from his house and teach him a lesson. Co-accused Kiran Gaikwad, Sudarshan Aagleme, Anil Shah, Prathmesh Waghmare as well as Ajay Rathod have been enlarged on bail. Admittedly, the Applicant had no motive to cause the death of the deceased. Till date trial has not commenced. The learned APP, states that the Applicant has no antecedents. Considering the aforesaid material and the fact that there are no antecedents qua the Applicant, the application is allowed and the Applicant is enlarged on bail on the following terms and conditions:

ORDER

- i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.50,000/- with one or two sureties in the like amount;
- ii) The Applicant shall attend the concerned Police Station, on the **first and third Sunday of every month**, between 11:00 a.m. to 12:00 noon, till the framing of the charge;
- iii) The Applicant shall not enter the jurisdiction of **MIDC Bhosari Police Station, Pune** and Village **Moshi** till the conclusion of the trial;
- iv) The Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- v) The Applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the investigation Officer of the concerned Police Station;
- vi) The Applicant shall co-operate in the conduct of the

trial;

vii) It is made clear, that if in the eventuality of failure to attend any two consecutive dates, the prosecution shall be at liberty to seek cancellation of Applicant's bail.

7. The Application is allowed and disposed of in above terms.
8. All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)