

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 2603 OF 2018

Basu Das @ Badshah Makamlal

Das

...Applicant

V/s.

State of Maharashtra

(at the instance of Sr.P.I. of
Amboli Police Station, Mumbai
vide C.R. No. 200/2017)

....Respondent

* * * * *

Mr. Neville D. Deboo, Advocate for the applicant.

Ms. M.H. Mhatre, APP for the State-respondent no.1.

Coram : Sandeep K. Shinde, J.

Friday, 21st December, 2018.

P.C. :

1. Heard learned Counsel for the applicant and learned APP for the State.

2. The applicant is accused in Crime No. 200 of 2017 corresponding to Sessions Case No. 122 of 2018.

3. The learned Counsel for the applicant submits that the applicant has been falsely implicated. He submits that, there is neither direct nor circumstantial evidence

against him. He has pointed out the statements of the witnesses and particularly the statement of Mohitkumar Dharamchand Yadav who was the security guard of the Society where the dead body of Kirtika (deceased) was found. The learned Counsel disputes the statement of the security guard vis-a-vis the CCTV footage recovered by the Investigation Officer. It is submitted by him that the CCTV footage recovered on 21st June, 2017 relates to 8th June, 2017 between 1 to 3.00 p.m. He further submits that the statement of the security guard contradicts the CCTV footage and therefore this piece of evidence i.e the statement of the security guard does not support the prosecution's case. His next submission is that, though the test identification parade was conducted, he was identified by one Ramesh who was not on the duty on 9th June, 2017. He submits that the prosecution had not called Mohitkumar Yadav when the test identification parade was conducted. He further submits that even the DNA profile does not support the prosecution's case.

4. The learned APP on the other hand pointed out that the CCTV footage discloses presence of the applicant in the Society on 8th June, 2017 where Kirtika was living.

Besides, there is a statement of another guard by name, Ravikumar Ramesh Bharati who has stated that the applicant was visiting the house of the deceased. Besides, it is pointed by the learned APP that the key of the flat where the dead body of the deceased was found was recovered at the instance of the applicant from his house on 16th July, 2017. It may be stated that the applicant was arrested on 10th July, 2017.

5. Looking into the circumstances as pointed out by the learned APP, I am of the view that there is incriminating material against the applicant. That even otherwise, the viscera report is awaited. The material prima-facie establishes the fact that the applicant visited the house of the deceased on 7th June, 2017. In view of the facts aforesaid, I am not inclined to grant this application. The application is rejected.

6. It is made clear that these are prima-facie observations and thus the learned Sessions Judge shall appreciate evidence independently without being influenced by the observations made in this order.

(SANDEEP K. SHINDE, J)