

Anand

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

BAIL APPLICATION NO. 2669 OF 2017

Sandeep Popat Kumbhar

.Applicant

Vs.

The State of Maharashtra

.Respondent

Mr. Ganesh Gole i/b. Mr. A. Shirodkar, Advocate, for the Applicant
Mrs. J. S. Lohokare, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 26.04.2018

P.C.

. Heard learned counsel for the parties.

2. By this application, the Applicant seeks his enlargement on bail in connection with C.R. No. 62 of 2017 registered with the Kashimira Police Station, Thane, for the alleged offences punishable under Sections 302, 364, 364(a), 365, 201, 342, 170, 323, 506 and 34 of the Indian Penal Code.

3. Learned counsel for the Applicant seeks bail on the ground of parity. He submits that similarly placed co-accused – Amir Gulam-Rasul Tambe has been enlarged on bail by this Court

(Coram : Revati Mohite Dere, J.) vide Order dated 13.04.2018 passed in B. A. No. 2921 of 2017.

4. Learned APP opposed the Application. She submitted that the Applicant herein, has made an extra judicial confession to one Rajesh Kulkarni, that he and other co-accused had thrown the dead body of Sachin (deceased) at Manor.

5. Perused the papers. The alleged incident is stated to have taken place between 11th July, 2016 from 5:30 p.m. to 12th July, 2016 at about 5:00 a.m. According to the prosecution, Satyakumar had abducted Sachin Mohite (deceased), as Sachin Mohite had not returned Rs. 1.5 lakhs taken from Satyakumar. It is alleged by the prosecution, that pursuant thereto, Satyakumar along with other co-accused abducted Sachin from Sunrise Hotel, Kashmiri Naka and had taken him to Aarey Colony, to the Office of accused No.1-Satyakumar. It is, further alleged that in the said office, Sachin was assaulted by fist and kick blows by the accused and was thereafter taken to R. K. Premium Hotel, Kashmiri in an Innova Car bearing No. MH-04-CT-2942. Some of the accused are also alleged to have travelled in a Corolla Car. In R. K. Premium Hotel, Sachin was again assaulted by fist and kick blows and

after the said assault, his body was carried in a Corolla Car bearing No. MH-04-BN-8595 and was thrown by the accused in Surya river at Manor, Maswangaon.

6. According to the prosecution, there are three eye witnesses to the said incident. It appears that out of the three eye witnesses, Laxmidhar Raut has named the Applicant. According to the prosecution, the Applicant was present with the other co-accused at R. K. Premium hotel and thereafter, when the dead body was disposed off in the Surya river at Manor.

7. Prima facie, there are certain discrepancies in the statements of Indrajeet, Santosh Shetty and Laxmidhar Raut with respect to the presence of the applicant. As far as Santosh Shetty is concerned, he has not named the applicant and no identification parade has been held. It is also pertinent to note that the DNA report received does not show that the dead body was of Sachin Mohite.

8. Considering the aforesaid, the Application is allowed and the Applicant is enlarged on bail on the following terms & conditions :-

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 50,000/-, with one or two local solvent sureties in the like amount;
- (ii) The applicant shall attend the concerned Police Station on the first Sunday of every month between 10:00 a.m. to 11:00 a.m., till the conclusion of the trial;
- (iii) The Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (iv) The Applicant shall inform his latest place of residence and mobile contact number and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;
- (v) The Applicant to cooperate with the conduct of the trial;
- (vi) The Applicant shall file an undertaking with regard to clauses (ii) to (v) in the trial Court within two weeks of his release;
- (vii) If there are two consecutive defaults in appearing before the trial Court or in reporting to the Investigating Officer and if there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

9. The application is accordingly disposed of.

10. It is made clear that the observations made herein are prima facie, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)