

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2921 OF 2017**

Amir Gulam-Rasul Tambe	...Applicant
Versus	
State of Maharashtra	...Respondent

Ms. K. R. Shah I/b Mr. Rishi Bhuta for the Applicant

Mr. A. A. Palkar, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.
FRIDAY, 13th APRIL, 2018

P.C. :

1. 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. 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.

4. According to the prosecution, there are three eye-witnesses to the said incident i.e. Indrajeet, Santosh Shetty (Cashier of R. K. Premium Hotel) and Laxmidhar Raut (Watchman of R.K. Premium Hotel). Although the alleged incident is stated to have taken place between 11th July, 2016 and 12th July, 2016, the FIR was lodged as against the accused only on 11th February, 2017 i.e. after almost 6 months of the incident. On 1st March,

2017, the applicant was arrested and on 19th April, 2017, Indrajeet Kajale's first statement was recorded i.e. almost after 9 months of the incident and 2 months of lodging of the FIR. According to the prosecution, the applicant was the driver of the Corolla Vehicle in which Sachin was brought to R.K. Premium Hotel and thereafter his dead body was disposed of at Surya river at Manor, Maswangaon.

5. *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.

6. Learned A.P.P has tendered a copy of the DNA report dated 30th March, 2017. The opinion given by the Assistant Chemical Analyser is as under :

*“Narayan Shivram Mohite is **excluded** to be the biological father of unknown deceased in F.S.L.ML. Case No. DNA-1275/16.”*

7. The applicant has no antecedents. Investigation is complete and charge-sheet is filed. Considering the aforesaid, 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 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.

8. The application is accordingly disposed of.

9. 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.

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

REVATI MOHITE DERE, J.