

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

BAIL APPLICATION NO. 3029 OF 2017

Sunil Anil Liman

....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Satyavrat Joshi for the applicant.

Ms. Pallavi N. Dabholkar, APP for the State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED: 31th AUGUST, 2018.

P.C.:

. This is an application for bail under Section 439 of Criminal Procedure Code filed by the aforesaid applicant, who is facing trial in MCOC Case No.14/2016 arising from C.R.No.284/2015 registered at Sahakar Nagar Police Station, District Pune for offences punishable under sections 201, 302, 323, 364 r/w. 34 of the Indian Penal Code and sections 3(1) (i), 3(4) of the Maharashtra Control of Organised Crime Act, 1999.

2. Heard Mr. Satyavrat Joshi, learned counsel for the applicant and Ms. Pallavi N. Dabholkar, learned APP for the State. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties.

3. The afore stated crime was registered pursuant to the first information report lodged by Sangita Pawar, the mother of the deceased Ashok Pawar. The first informant report reveals that Akash who was about 15 years of age, had left the house on 24/10/2015 at about 11:20 a.m. and that he had not returned home. The first informant had therefore given a missing report. On 26/10/2015, at about 03:00 p.m., Salim Shaikh, friend of Akash had told the first informant that the co-accused nos.5 and 6 had threatened to kidnap and murder her son Akash. She, therefore suspected that the said two persons had kidnapped her son with an intention of causing his death.

4. The material on record *prima facie* indicates that Ajay Kamble, accused no.4 was arrested and while in custody he had volunteered to show the place where the body of Akash was burnt. Accordingly, the Investigation Officer had secured presence of two panchas viz. Kishore and Jitendra Bhogle and recorded the disclosure statement of accused no.4 in their presence. The material on record *prima facie* reveals that the accused no.4 had taken the police and panchas to the Ganesh Chambers, the place where Akash was allegedly murdered. The panchnama of the said place was drawn. The police had recovered some gutkha packets from the said room and thereafter as per the

instructions of the accused no.4, they had proceeded towards crematorium near the river bank in village Rajapur. The accused no.4 showed the place where the body was cut into pieces and burnt. Some pieces of bones, blood-stained mud, blood-stained stones were recovered from the said place. Some other articles such as gutkha packets, empty bottles, plastic glasses, etc were recovered in presence of panchas. The material on record reveals that an axe used for cutting the body of Akash in pieces and the bucket used for throwing the ashes in the river was recovered at the instance of accused no.6 – Vijay Kamble in the presence of panchas as per the disclosure statement made on 31/10/2015.

5. As regards the motive, statement of Saurabh Bhagat *prima facie* reveals that on 24/10/2015, at about 12:00 p.m. while he and Akash were standing near Navjeevan Mitra Mandal, the co-accused Ajay and Sagar had abused him and Akash as they believed that Akash was providing information about them about Datta Mane who was a leader of rival gang. His statement *prima facie* indicates that these two accused had threatened to kidnap and murder Akash.

6. The statement of Abhijeet, Madhav and Swapnil *prima facie* reveals that on 24/10/2015, during the afternoon hours, they had seen Nitesh Sable and the present applicant Sunil Liman taking Akash on a red colour splendor motor cycle and proceeding towards lottery mandi. The records reveal that the Ganesh Chambers wherein Aakash was allegedly murdered, is situated in the vicinity of lottery mandi.

7. The statement of Vijay Sawant *prima facie* reveals that he own a Maruti Van. The applicant is known to him. On 28/09/2015, he received a phone call from the applicant. The applicant told him that he and his friends wanted to go for lunch and asked him to come with his Maruti Van bearing no.MH-12-F-0822 and that he would pay the hire charges. Accordingly, he went to Balaji Nagar with his van and met the applicant, accused no.1/Afsal and Nitesh. The applicant had told him that they wanted to go to Parwadi, Kusgaon Khind. He has stated that on the way he heard the accused no.1 telling Nilesh to call Sagar (the co-accused) however, the phone of Sagar was switched off. This witness claims that he had heard the applicant and the co-accused Afsal and Nilesh talking amongst themselves. Their conversation indicated that they had murdered someone and that his body was in a Santro car which was proceeding ahead in the same direction and they

were contemplating what could be done if they could not find the Santro car. His statement further indicates thereafter the applicant told him to drop them at Bhor Junction. At this junction, the co-accused Nilesh called someone and asked where he was. Thereafter, said Nilesh told him to take the car towards Saroda Junction. The statement of this witness further reveals that the applicant and the other persons got down at Saroda junction and further told him not to disclose to anyone that they had got down at Saroda Junction. They told him that in case anybody asked him about them, to state that he had dropped them at Shirwad.

8. Thus, the material on record *prima facie* indicates that the applicant was seen taking Akash towards lottery mandi wherein Akash was murdered. Statement of witnesses *prima facie* indicates that the applicant was seen in the company of other co-accused and they had proceeded towards the place wherein a body was cremated. There is a *prima facie* material on record to show that the applicant was involved in commission of the said crime. The offence is of serious nature. Considering the nature and the gravity of the offence, in my considered view, this is not a case which would justify bail. Hence, the application is dismissed. Needless to state the observations recorded in the bail

application should not be construed as an expression on merits of the case.

(SMT. ANUJA PRABHUDESSAI, J.)