

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.1015 OF 2019

Rohit Eknaath Kamble] ... Applicant

Versus

The State of Maharashtra] ... Respondent

Mr. Kuldeep Patil, Advocate for the Applicant.

Ms. S.S. Kaushik, APP for the State/Respondent.

CORAM :- SARANG V. KOTWAL, J.
DATE :- 19th AUGUST, 2019.

P. C. :-

1. The applicant is seeking his release on bail in connection with C.R.No.54/2018 registered with Gokul Shirgaon Police Station, District Kolhapur u/sec. 302, 201, 120 (B) r/w 34 of I.P.C.

2. The FIR is lodged on 24/03/2018. The applicant is arrested on 29/03/2018 and since then he is in custody. The prosecution case is that, on 04/11/2017, deceased Aziz Vajir had left his house and thereafter he did not return. On 24/03/2018 police party at Tamgaon village was informed by one Prakash Sasane that a dead body was found in a pond in village in the land of one Raju Pawande. The first

informant and others went there. The dead body was taken out. It was found that, the dead body was tied to two cement poles with nylon rope and wire. The dead body was in a highly decomposed state. The postmortem report was conducted on the dead body. It showed that there was fracture of parietal bone and the cause of death was mentioned as "Evidence of head injury, however the opinion was reserved for accessory examination report". The fact remained that, the dead body had suffered skull fracture. The prosecution case is that, the brother of deceased Rashid wanted to sell deceased's land to one Bhairu More through another co-accused Javed. All the three are accused in this case. The present applicant and one Sunil More assisted these three accused in committing murder of the deceased with iron rod. After committing his murder, the dead body was tied to two cement poles which were brought from a poultry farm of one Indulkar and it was thrown in the pond. The investigation was completed. The charge-sheet was filed u/sec. 302, 201, 120 (B) r/w 34 of I.P.C. As mentioned earlier, the applicant was arrested on 29/03/2018 and since then he is in jail. The DNA samples of the dead body was compared with those of the mother of the deceased. The report shows that, the dead body was of the deceased. The dead body

was also identified by widow of the deceased. Her identification was based on the clothes worn by the deceased.

3. Heard Mr. Kuldeep Patil, Ld. Counsel for the applicant and Ms.S.S.Kaushik, Ld. APP for the State.

4. I have perused the entire charge-sheet. The case is based on the circumstantial evidence.

5. Mr. Patil submitted that, there are no incriminating circumstances against the present applicant and therefore his continuous detention in the custody is not required.

6. Ld. APP submitted that, there is sufficient evidence against the present applicant and the circumstances complete the chain against the present applicant and therefore bail should not be granted.

7. The charge-sheet shows that, there is recovery of cement poles at his instance. In the statement recorded on 04/04/2018, the applicant had shown his willingness to show the place where the cement poles were hidden. The panchanama shows that, the applicant

led the police party and panchas towards Ujlaiwadi village and a little distance before Tamgaon village. They were taken to a poultry farm owned by one Indulkar. Nothing was recovered from that place. One cement pole was lying there. This statement has not led to discovery or recovery of any material. Therefore, this is not an incriminating circumstance against the present applicant.

8. There is a statement of one Rohan Patil who was running a hotel by the name Hari Prasad Hotel. He has stated that, the present applicant and other accused used to visit his hotel on many occasions and they used to discuss about some property. There is a similar statement of one Dadaso Mane who was a member of the Social Club where the present applicant and other accused used to visit. However, these statements themselves do not show anything except that, all the accused used to go there. I have mentioned earlier that, there are hardly any incriminating circumstances against the present applicant. The prosecution case is mainly against three accused i.e. Javed Shaikh, Sunil Shinde and Rashid. Rashid was brother of the deceased who wanted to sell the land to Bhairu More. There are allegations that, in the past, Rashid had impersonated the deceased in a land transaction.

In all this part the present applicant was not concerned. Though there are allegations that, the present applicant was involved in the past in C.R. No.23/2018 registered at Karveer Police Station for causing murder of another person for which he is already granted bail ; in the present charge-sheet there is no incriminating circumstance against the present applicant. In view of the above discussion, the applicant deserves to be released on bail. Hence, the following order.

ORDER

1. The Applicant is directed to be released on bail in connection with C.R.No.54/2018 registered with Gokul Shirgaon Police Station, District Kolhapur, on his furnishing P.R.Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
2. Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)