

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

CRIMINAL BAIL APPLICATION NO.69 OF 2019

Akash Anna Bhokse

.... Applicant

versus

The State of Maharashtra

.... Respondent

.....

- Mr. Shailesh Kharat, Advocate for Applicant.
- Ms. S.S. Kaushik, APP for the State/Respondent.
- HC Mr. V.M. Kumbha, Chakan Police Station, Pune, present.

CORAM : SARANG V. KOTWAL, J.

DATE : 27th JUNE, 2019

P.C. :

1. The Applicant is seeking bail in connection with C.R.No.334/17 registered with Chakan Police Station, Pune, under sections 302, 201 r/w 34 of the Indian Penal Code.

2. The FIR is lodged on 28/03/2017 by one Sudam Vishnu Potwade. He has stated in his FIR that his daughter Manda was married to one Rohidas Balu Bhogwale. It was second marriage for both Manda and Rohidas. After their

marriage, they had a daughter named Ankita. They were residing at Kurkundi, Taluka Khed, District Pune. Rohidas was earning his livelihood through agriculture. He had dispute with his brother Kantaram. Rohidas had two sons from his earlier marriage namely Deepak and Shubham. It is mentioned in the FIR that the informant was told by one Mohan Bhokse that on 25/03/2017 one Navnath Dangle had gone to Kurkundi village. Loud shouts from the house of Rohidas were heard and since then Rohidas, Manda and Ankita were not seen. The house was locked. There were blood stains outside the house which were covered with mud. On 28/03/2017, the first informant was called at Kurkundi as the dead bodies of Rohidas, Manda and Ankita were recovered from a shed. The dead bodies were found buried. When the dead bodies were recovered, it was seen that they had suffered many injuries. Based on these facts the FIR was lodged.

3. The post-mortem examination was conducted on all the three bodies. Post-mortem examination shows that all the

three had suffered many chopped wounds resulting in their death. The present Applicant was arrested on 28/03/2017. The case of the prosecution is that the present Applicant was a friend of Rohidas's son Deepak from his first marriage. It is the case of the prosecution that there used to be frequent quarrels between Deepak and Rohidas, as Deepak wanted his share of the property. It is the case of prosecution that Deepak, with the help of the present Applicant committed murder of Rohidas, Manda and Ankita and buried their dead bodies at the spot from where they were recovered. The investigation was carried out and the chargesheet was filed.

4. Heard learned Counsel Mr. Shailesh Kharat for the Applicant and learned APP Ms. S.S. Kaushik for the State.
5. Learned Counsel for the Applicant submitted that there is not even a single piece of evidence against the present Applicant. He submitted that the evidence collected in this case does not go beyond allegations against Deepak. He pointed out

that there are indications in the FIR that the offence was committed perhaps by some other person, with whom the deceased Rohidas had his dispute.

6. In the entire charge-sheet there is only one circumstance against Deepak and that is recovery of certain bedsheets and weapons. The bedsheets were found floating in a river and the weapons i.e. two Koytas, one sword and one big knife were found from near bank of the river at the instance of Deepak. Beyond this, there is no incriminating piece of evidence. The charge-sheet shows that Deepak had purchased 50 kgs of salt, perhaps to be put on the dead bodies. The inadmissible portion in the memorandum statement of the co-accused Deepak recorded under section 27 of the Evidence Act cannot be used against the Applicant.

7. Considering all these aspects, it is more than clear that there is no material against the present Applicant which can be translated into legal evidence. The memorandum statement of

Deepak recorded u/s 27 cannot be used even at this stage against the present Applicant. Considering this aspect that there is no evidence against the present Applicant, the Applicant deserves to be released on bail. Hence, the following order :

ORDER

- (i) The Applicant is directed to be released on bail in connection with C.R.No.334/17 registered with Chakan Police Station, Pune, on his furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
- (ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)