

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

CRIMINAL BAIL APPLICATION NO. 269 OF 2019

Vivek Tanaji Bahirat	...	Applicant
Versus		
State of Maharashtra	...	Respondent

Mr. Satyavrat Joshi for Applicant.
Mr. S. S. Hulke, APP for Respondent – State.

CORAM : NITIN W. SAMBRE, J.
DATE : JANUARY 25, 2019.

P.C. :

. In Crime No. 540 of 2017 for an offence punishable under Sections 302, 201 read with Section 34 of the Indian Penal Code, the Applicant is seeking regular bail. The Applicant came to be arrested on 22nd August 2017 and was chargesheeted.

2. The prosecution case is, the Applicant accomplished other co-accused, murdered Ashok Kaluram Paigude. The learned Counsel for Applicant while seeking bail would urge that the investigation reveals that the role attributed to the Applicant is based on circumstantial evidence.

According to him, the only so called eye-witness to the incident namely, Gulab Gajanan Thopte has named the co-accused Ketan alias Monya with whom the Applicant accomplished in the execution of the crime in question. The learned Counsel submits that perusal of the statement of eye-witness Gulab Thopte does not repose confidence in the prosecution story. He would urge that considering the cause of death and the fact that the Applicant was already shown to the said witness prior to the Identification Parade, the Applicant is entitled to be released on bail.

3. *Per contra*, the learned APP opposed the claim based on the material available on record. Gulab Thopte - the eyewitness to the incident in question after about five days of the incident has specifically mentioned the presence of three persons along with the main accused Ketan alias Monya and the said witness has identified the Applicant in the light of the vehicle. Apart from above, the Applicant was already identified by the eye-witness Gulab in Identification Parade. There was discovery of the weapon under Section 27 of the Evidence Act at the behest of the Applicant.

4. In the aforesaid background, there is sufficient material to pin-point *prima facie* the involvement of the Applicant in the crime in

question. Considering the motive and material available on record, in my opinion, no case for bail is made out.

5. As such Criminal Bail Application fails. Hence the same stands rejected.

6. The observations are restricted to the stage of the matter.

(NITIN W. SAMBRE, J.)