

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 636 OF 2019

Abhay @ Abhya Sanjay Landage

... Applicant

Versus

The State of Maharashtra

... Respondent

Mr. Satyavrat Joshi alongwith Sunil S. Kamble, Advocates for the Applicant.

Mr. Prashant Jadhav, APP for the State.

Mr. Narendra Mundhe, PSI, Khothrud Police Station.

CORAM :- SARANG V. KOTWAL, J.

DATE :- 26th JUNE, 2019.

P. C. :-

1. The applicant is seeking bail in connection with CR No. 345/16 registered with Khothrud Police Station under Section 302 of IPC.
2. The applicant is arrested on 3rd August 2016 and since then he is in custody. The FIR is lodged by PI Ramesh Chandiade on 20th July 2016. The FIR pertains to finding of an unknown dead body at Kishkinda Nagar in Kothrud. The investigation was carried out and it was found that the person whose dead body was found was named Karan Varma and he was working in a furniture shop belonging to one Wajid Sabir. The investigation further reveals that the deceased had consumed liquor in the midnight of 17th July 2016. He was in the company of his friend Rakesh Kaulik. Both of them were confronted by three persons. Those three unknown persons tried to commit robbery. Rakesh escaped from the scene. However, the deceased

could not run away. On the next day Rakesh came to know that the deceased was murdered. The investigation papers reveal that three accused were arrested. The present applicant was shown to Rakesh on 6th August 2016 in the police station where he had identified the applicant as one of the persons who had tried to rob him and the deceased. At the instance of the present applicant one Lava make mobile phone was seized. The allegation of the prosecution agency is that the said phone was belonging to the deceased.

3. Heard Mr. Joshi, learned counsel for the applicant and Mr. Jadhav, learned APP for the State.

4. Mr. Joshi, learned counsel for the applicant submitted that identification in the presence of police at the police station has no meaning and on similar consideration the co-accused had already been granted bail. He further submitted that the mobile handset recovered at the instance of the present applicant is not incriminating evidence as there is nothing to show that the said mobile phone was belonging to the deceased. There is some force in his submission on these two aspects. However, there is one more crucial circumstance against the present applicant and that is an extra-judicial confession made by him to his mother and sister. Their statements are recorded on 5th August 2016 and it is mentioned in these statements that on 18th July 2016 itself at around 5.00 a.m. the applicant

had reached home. He was scared and he told them that the co-accused Nikhil had assaulted one person with a big stone and even he himself had assaulted that person with a big stone. This is the main circumstance against the present applicant. It is a settled position of law that in a given case conviction can be based on extra-judicial confession. At this stage, there is sufficient material against the present applicant. Therefore, he is not entitled to be released on bail. However, looking at the fact that he is in custody since 3rd August 2016, his trial is expedited. Learned trial judge shall make efforts to complete the trial as far as possible within a period of nine months from today. With these observations, application is disposed of.

(SARANG V. KOTWAL, J.)