

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

BAIL APPLICATION NO. 838 OF 2019

Pravin Ambadas Vitkar	...	Applicant
Versus		
The State of Maharashtra	...	Respondent

Mr. Daulat G. Khamkar for the Applicant.
Ms. A.A. Takalkar, A.P.P. for the Respondent – State.

CORAM : P.N. DESHMUKH, J.

DATED : 22nd APRIL, 2019.

P.C. :

1 This application is for bail by accused in crime No.248 of 2017 registered by Khadki Police Station, Pune, for the offence punishable under Sections 147, 148, 149, 364-A, 120(B), 302, 201 of I.P.C.

2 Learned Counsel for the applicant submitted that except for recovery of alleged blood stain clothes and one sickle at the instance of applicant, no other evidence establishing his involvement in this crime. It is submitted that even according to seizure panchnama, there is no mention of sealing of articles alleged to be discovered at the instance of applicant. It is also pointed out that inspite of filing of charge-sheet, neither there is C.A. report nor requisition memo sent to C.A. filed with the

charge-sheet, which thus, even do not establish if muddemal articles involved in this crime are forwarded for its analysis. It is, therefore, contended that for the limited evidence against the applicant, there is no propriety keeping him behind the bars and, therefore, prayed that application be allowed.

3 Learned A.P.P. could not point out any other evidence against applicant except as aforesaid nor could point out if muddemal recovered at the instance of applicant, is forwarded for its analysis to C.A.

4 The documents would reveals that at the instance of applicant, his shirt, pant and one sickle alleged to be blood stained is seized. However, admittedly no C.A. reports are on record. Similarly, in the memorandum statement, there is no reference of any place where from applicant can said to have made a statement to discover his clothes and sickle. Inspite of that, further contents of panchnama reveals that Investigating agency proceeded to spot however, without giving much waitage to this aspect, considering further contents of recovery panchnama, it is found that one sickle came to be seized as discovered at residence of applicant near from one tree situated near the compound wall of school, which admittedly appears to be accessible to all. While applicant's clothes are produced by him from cupboard in his house. In the absence of any of

spots, since not stated by applicant in his memorandum statement, case of prosecution of Investigating Officer proceeding to the places for effecting recovery itself, is doubtful. Even otherwise none of the muddemal alleged to have been discovered at the instance of applicant and seized under panchnama is found duly sealed as there is no reference of sealing of same. In that view of the matter, even the limited evidence available against applicant is full of doubts, hence following order :

ORDER

(i) Applicant shall be released on bail in C.R. No.248 of 2017 registered with Khadki Police Station, Pune, for the offence punishable under Sections 147, 148, 149, 364-A, 120(B), 302, 201 of I.P.C., on his executing P.R. Bond in the sum of Rs.50,000/- with one surety in the like amount;

(ii) While on bail, applicant shall mark his presence with Khadki Police Station, Pune, quarterly on the first day of each such month between 10.00 a.m. to 1.00 p.m., pending trial;

(iii) Application stands disposed of as allowed in above terms.

(P.N. DESHMUKH, J.)