

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

CRIMINAL BAIL APPLICATION NO. 1006 of 2018

Keshav Minu Mistry

... Applicant

V/s.

The State of Maharashtra

... Respondent

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Ms. Kusum Pandey, Advocate i/b Jitendra Tiwari for the Applicant.

Mrs. G.P. Mulekar, APP for the Respondent-State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 25th FEBRUARY, 2019.

P.C.:

The applicant has preferred this application for bail in connection with C.R. No. 557 of 2017, registered with Waliv Police Station, Vasai, Dist. Palghar. The offences were registered under Sections 302 and 201 read with 34 of Indian Penal Code (hereinafter referred to as 'IPC' for short).

2. It is alleged that the First Information Report (hereinafter referred to as 'FIR' for short) was lodged on 21st August, 2017. The dead body was found floating in the water. The identity of the dead body was not known. The FIR was lodged against unknown person.

Postmortem was conducted. The opinion as to cause of death was referred to as due to deep cut wound on the neck, fracture of hyoid bone and bleeding due to hard and heavy object. The applicant was arrested on 15th September, 2017. The accused no.1 is the brother of the deceased. Accused No.4 is the mother of the deceased.

3. The applicant preferred an application for bail before the Sessions Court, Vasai, Dist. Palghar. The said application was rejected by order dated 23rd February, 2018.

4. Learned Advocate for the applicant submitted that the case is based on circumstantial evidence. Deceased had relationship with several women. The applicant has been arrested on suspicion. The motive attributed for crime is beyond imagination. There is no eye-witness to the incident. Apart from recovery of gold ornaments, there is nothing on record to connect the applicant with the crime. There is possibility of deceased being killed by some other person as he has ruined life of several women. There is nothing on record to show that the applicant was hired to commit murder of deceased. The prosecution did not put-forth any history to show that the applicant is a contract killer. The recovery under Section 27 of the Evidence

Act, dated 18th September, 2017 with regard to the statement that the applicant has mortgaged gold with Muthoot Finance Company is defective.

5. Learned APP submitted that there is strong evidence against the applicant. CDR record shows the involvement of the applicant in the crime. There is recovery of ornaments. There is sufficient evidence to show complicity of the applicant in the crime.

6. I have perused the charge-sheet. Deceased Ramcharan is son of accused no.4. It is alleged that he was having illicit relation with many women. He had relationship with stepmother. Accused No.1 is son of accused no.4. It is alleged that accused had grudge against the deceased. It is alleged that there was conspiracy to kill the deceased with the aid of accused nos. 2 and 3. Accused Nos.1, 2 and 3 brought the deceased at the place of incident. He was assaulted by scythe and killed. The articles belonging to the deceased were stolen, dead body was thrown into the water with a view to cause disappearance of evidence. Weapon used in the offence were recovered. The ornaments were pledged with Gold Finance Company. There is material on record to believe involvement of the applicant. CDR

record indicate calls exchange between accused nos.1 to 3. Arrest panchanama of the applicant shows that there were injuries on his person. The applicant made statement leading to recovery of gold ornaments such as bracelet, finger ring, which were mortgaged. Thus, there is sufficient evidence to show involvement of the applicant and no case for grant of bail is made out. Hence, the application is required to be rejected.

7. Hence, I pass the following order:

ORDER

Bail Application is rejected.

(PRAKASH D. NAIK, J.)