

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1541 OF 2019**

Ashok Kumar Chabinath Shukla	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Nitin Sejpal a/w Ms. Pooja Sejpal for the Applicant

Mr. P. H. Gaikwad-Patil, A.P.P for the Respondent-State

PI Mr. Ranvir Bayes from Thane Crime Branch, Unit-I is present

CORAM : REVATI MOHITE DERE, J.
THURSDAY, 1st AUGUST 2019

P.C. :

1 Heard learned counsel for the parties.

2 By this application, the applicant seeks his enlargement on bail in connection with C.R. No. I-234 of 2018 registered with the Naupada Police Station, Thane, for the alleged offences punishable under Sections 302, 201, 363, 364, 365, 120B of the Indian Penal Code.

3 Learned counsel for the applicant seeks bail on the ground of parity. He submits that identically placed co-accused Bhaskar Nurangikar

has been released on bail vide order dated 30th January 2019, passed by this Court (Prakash D. Naik, J.) in Criminal Bail Application No. 3162 of 2018.

4 Learned A.P.P has filed an affidavit of PI Ranvir Bayes, Crime Branch Unit No.1, Thane. Learned A.P.P states that the applicant along with other co-accused participated in hatching conspiracy to kidnap/kill deceased Surendra Mishra. According to the learned A.P.P, the applicant pretended himself to be one Yadav, who wanted to rent his house and accordingly, asked Surendra Mishra (deceased) to sit in the Maruti car, which was occupied by the other co-accused. According to the learned A.P.P, the deceased was assaulted in the shanty made up of tin sheets, by all the accused and that all the other co-accused and the applicant was present at that time when the deceased was kept hostage and was assaulted. He further submits that there is CDR to show that the applicant was in touch with the co-accused. He, however, does not dispute the fact that the applicant had not accompanied co-accused-Rajendra Tiwari on the train to Kasara, from where Rajendra Tiwari pushed the deceased-Surendra from a running train.

5 Perused the papers, in particular, the order dated 30th January 2019. According to the prosecution, deceased-Surendra was having an affair with the co-accused-Rajendra Prasad Tiwari's daughter and that the deceased and co-accused-Rajendra's daughter had decided to get married. It appears from the prosecution case that the accused-Rajendra had opposed the said relationship, however, despite the same, the relationship continued. According to the prosecution, co-accused-Rajendra conspired with the other co-accused including the applicant to kill Surendra (deceased). It is further alleged that on 14th July 2018, the accused kidnapped Surendra, in a car and took him to a shanty made up of tin sheets of co-accused-Bhaskar and thereafter assaulted Surendra. It is alleged that the co-accused including Bhaskar assaulted Surendra with fists and kick blows and wooden log. No overt act has been attributed to the applicant. It appears that after the assault, on 15th July 2018 at about 3:30 a.m, Rajendra Tiwari took the deceased-Surendra in Luggage Compartment in Kasara bound train. It is alleged that when the train reached between Khadavli and Vasind Railway Station, co-accused-Rajendra pushed deceased-Surendra from the running train, as a result of which, Surendra expired. *Prima facie*,

there appears to be no material to show that the applicant had accompanied co-accused-Rajendra on the train or any material to show his involvement in the murder of deceased-Surendra. No motive or overt act is attributed to the applicant. Except allegation of kidnapping and taking the deceased to the shanty in a car and being present at the time when deceased was assaulted, there is no material to show that the applicant was present when deceased was pushed from the Luggage Compartment. Similarly placed co-accused-Bhaskar, who was also present at the time when the deceased was kidnapped and was assaulted, has been released by this Court (Coram : Prakash D. Naik, J.) vide order dated 30th January 2019. The applicant is in custody since 7th August 2018. Investigation is complete and charge-sheet is filed.

6 Considering the aforesaid, the application is allowed on the following terms and conditions :

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 25,000/- with one or two local solvent sureties in the like amount, either from Mumbai or Thane;

- (ii) The applicant shall not leave Mumbai and Thane City, without the permission of the trial Court;
- (iii) The applicant shall attend the concerned Police Station on the first Saturday of every month from 10:00 a.m. to 11:00 a.m. till the conclusion of the trial;
- (iv) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (v) The applicant shall inform his latest place of residence and mobile contact number and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;
- (vi) The applicant to cooperate with the conduct of the trial and attend all the dates before the trial Court, unless exempted;

(vii) The applicant shall file an undertaking with regard to clauses (ii) to (vi) in the trial Court, within two weeks of his release;

(viii) If there are two consecutive defaults either in attending the Police Station or in appearing before the trial Court, or breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

7 The application is accordingly disposed of.

8 It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

9 All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.