

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

BAIL APPLICATION NO. 1471 OF 2018

Suresh Vijay Naikwadi	Applicant
V/s.	
The State of Maharashtra	Respondent

Mr. Uday P. Warunjikar for the applicant.
Mr. Prashant Jadhav, APP for the State.
Mr. Vijay Jagdale, Police Sub-Inspector, Chakan Police Station,
Pimpri-Chinchwad, Commissioner, present.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : 19th AUGUST, 2019**

P.C.:-

. This is the second bail application filed by the aforesaid applicant who is facing trial in Sessions Case No.06/2016 pending on the file of Additional Sessions Judge, Khed-Rajgurunagar for committing offences punishable under Sections 302, 201 r/w. 34 of the Indian Penal Code and under section 4, 25 of Arms Act.

2. One Sarika Patil had lodged the first information report on 15/09/2015 alleging that on 06/09/2015, at about 09:00 p.m., her husband had left the house to meet some of his old friends. He did not return home for about two days. Hence, she lodged a missing report at Chakan Police Station. On 15/09/2015, she was called to the police

station and told that an unidentified body was traced on 14/09/2015. The body was totally decomposed and beyond recognition. However, she identified the clothes which were found on the body. Based on the FIR lodged by Sarika Patil, C.R. No.492/2015 was registered against some unknown persons for causing death of her husband Ganesh Patil.

3. Post mortem report indicates that there were chop wounds over the neck of the deceased and that his death was homicidal. The statement of the daughter of the deceased was recorded under Section 161 of Cr.P.C. Her statement prima facie indicates that the first informant - Sarika Patil would often go out with the applicant – Suresh Naikwadi and that she would return home by evening. She has stated that on the day of dahi handi, her maternal uncle, Kishore had brought her father home. He was under the influence of alcohol and was abusing the first informant - Sarika Patil. The first informant Sarika Patil served him dinner. Some time later she saw her mother going out of the house. When she questioned, her mother told her to keep quiet. She heard her mother talking to her maternal uncle i.e., co-accused Kishore and telling him to come home with Suresh. She has stated that thereafter, her mother took her and her sister out of the house and latched the door from outside. She saw the applicant-Suresh

and her maternal uncle-Kishore coming on a Scooty. The applicant had a sickle in his hand. Her mother handed over the keys of the house to Kishore. This witness had seen the applicant and Kishore opening the door and entering the house. She had also heard her father Ganesh Patil screaming loudly. When she told her mother that her father Ganesh was screaming, she told this witness to shut her mouth. She has stated that some time later, the applicant came and thereafter, they went near the petrol pump and once again proceeded towards their house. She has stated that thereafter her mother took them near one icecream shop and the next morning brought them home. She has stated that she had seen her mother wiping blood stains which were on the floor and wall of the house.

4. Mr. Uday Warunjikar, the learned counsel for the applicant contends that there are material contradictions in the statement of the daughter of the deceased recorded under Section 161 of Cr.P.C viz-a-viz statement recorded under Section 164 of the Cr.P.C. The only material variation is that in her statement u/s. 161 of Cr.P.C., she had stated that she had seen the applicant carrying a sickle wherein no such reference is found in her statement recorded under Section 164 of Cr.P.C. Suffice it to say that this is not a stage to appreciate the

evidence.

5. The applicant herein was arrested on 18/09/2015. The record prima facie indicates that pursuant to the disclosure statement made by the applicant, the investigation agency visited the place of the incident and attached scrapping on the wall in presence of panchas. Similarly, blood stains on the scooter and clothes of the applicant were attached under panchanama and forwarded for forensic examination. The forensic report prima facie indicates that human blood was detected on the clothes of the applicant, on the scooter as well as on the wall of the room wherein the deceased and his wife were allegedly residing.

6. The material on record prima facie proves the involvement of the applicant in committing the grave offence. The offence is of serious nature. It is stated that the charge has already been framed. The material witnesses are not yet examined. Releasing the applicant at this stage is likely to hamper the trial. Considering the above facts and circumstances, in my considered view, this is not a fit case for grant of bail. Hence, the Bail Application is dismissed.

7. It is made clear that the above observations shall not be construed as an expression on merits of the case. The Trial Court is expected to decide the case on its own merits.

8. At this stage, the learned counsel for the applicant makes a grievance that the applicant is in custody since last four years, without there being any progress in the case. The learned APP contends that the case is adjourned only because of the non availability of the counsel for the applicant. The learned counsel for the applicant states that there will be full co-operation on the part of the applicant and his advocate. Considering the fact that the applicant is in custody since 2015, the learned Additional Sessions Judge, Khed-Rajgurunagar to endeavour to dispose of the case as expeditiously as possible.

(SMT. ANUJA PRABHUDESSAI, J.)

Preeti
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