

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

CRIMINAL BAIL APPLICATION NO. 1485 OF 2018

Ramesh Mithalal Mandot	... Applicant
Vs.	
The State of Maharashtra	... Respondent

...

Mr. Aniket Nikam for the applicant.
Mr. A.R. Kapadnis, APP for the Respondent-State.

...
CORAM : PRAKASH D. NAIK, J.
DATE : 25th JANUARY, 2019.

P.C.

1. This is an application for bail in connection with CR No. 405 of 2017 registered with Bandra Police Station for the offence punishable under Section 302 of Indian Penal Code. First Information Report was lodged on 2nd September, 2017.
2. Prosecution case is that the complainant's cousin brother Anjani Tiwari (deceased) was residing in Mumbai from last 12 years and working as security guard. On 2nd September, 2017 at about 10.30 p.m. the complainant was informed by the Bandra Police that his cousin had sustained injuries and he is dead. Complainant noticed that his brother was assaulted by sharp weapon on his chest and stomach.

3. Applicant's contention is that there is no evidence against the applicant showing his involvement in the crime. There is no eye witness to the incident. No motive to commit the crime. Alleged recovery of knife which was recovered from the possession of the applicant did not have any blood stain. Applicant's clothes also did not have any blood stain. Extra judicial confession made by the wife of the applicant is weak piece of evidence. It is further submitted that CCTV footage only indicates that one person was running in a suspicious condition. Applicant was apparently arrested on the basis of CCTV footage.

4. Learned APP submitted that CCTV footage supports the case of the prosecution. Accused applicant made statement to his wife having committed crime which is extra judicial confession. There is recovery of knife at the instance of the applicant.

5. On perusal of the documents on record, it is apparent that there is no direct evidence against the applicant. There is no eye witness to the incident. Nobody had seen the applicant at the place of incident when the deceased was assaulted. Prosecution is relying upon the extra judicial confession made to the wife by the applicant. Her statement was recorded on 15th September, 2017. On perusal of the statement, it is apparent that according to his

wife, the applicant had returned home and at that time he disclosed her about the commission of crime. The statement do not indicate that she had seen any blood stain on the clothes of the applicant. Knife which was recovered had no blood stain. CCTV footage merely shows that one person found suspiciously running at the place of incident. There is no direct evidence which establishes that the applicant had any link with the alleged crime and he had assaulted victim. Applicant is in custody from 7th September, 2017. Investigation is completed and chargesheet has been filed. Considering the aforesaid circumstances, case for grant of bail is made out. Hence, I pass the following order.

ORDER

- i. Criminal Bail Application is allowed;
- ii. Applicant is directed to be released on bail in connection with CR No. 405 of 2017 registered with Bandra Police Station on furnishing P.R. Bond of Rs.20,000/- with one or more sureties in the like amount;
- iii. Applicant shall report to the concerned police station once in a month on first Saturday of every month between 11 a.m. to 1 p.m. till further order;
- iv. Applicant shall attend the trial Court regularly on the date of

hearing, unless exempted by the trial Court.

- v. Applicant shall not tamper with the prosecution witness;
- vi. Criminal Application stands disposed off.

(PRAKASH D. NAIK, J.)