

Anand

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

**BAIL APPLICATION NO. 1527 OF 2018
(THROUGH POST)**

Kartik Murgesh Devendra .Applicant

Vs.

The State of Maharashtra .Respondent

Mr. Karma Vivan, Appointed Advocate, for the Applicant
Mr. A. R. Kapadnis, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 20.08.2019

P.C.

. Heard learned counsel for the parties.

2. By this Application through jail, the Applicant seeks his enlargement on bail in connection with C. R. No. 160 of 2014 registered with the Manpada Police Station, Thane, for the alleged offences punishable under Sections 302, 397 r/w 34 of the Indian Penal Code.

3. Learned appointed Advocate for the Applicant states that there are circumstances on record to connect the Applicant with the alleged offences. He submits that the Applicant was arrested on 25.12.2013 in connection with C. R. No. 570 of 2013 registered with the Manpada Police Station, Thane for the alleged offences punishable

under Sections 452, 394, 397, 411 r/w 34 of the Indian Penal Code along with other co-accused. He submits that during the course of investigation, in the said C. R. i. e. C. R. No. 570 of 2013, it transpired that the Applicant had committed the aforesaid offences i. e. in C. R. No. 160 of 2014. He submits that the Applicant is languishing in jail for the last five and half years with no prospect of the trial commencing in the immediate near future, in both the cases. He further submits that judicial notice be taken of the fact that even the trial of C. R. No. 570 of 2013 (S. C. No. 124 of 2014) has not commenced till date, as one of the co-accused is absconding.

4. Learned APP opposed the Application.

5. Perused the papers. The prosecution case rests on circumstantial evidence. The allegation as against the Applicant is that he alongwith co-accused entered the house of the Complainant – Lalmohan Mayati and thereafter, strangled the Complainant's wife – Sonali, on 25.07.2012. According to the Complainant, when he reached the house, he noticed that the lights and fans of his house were on and the door was locked from outside, pursuant to which he used his key to open the door. He has further stated that when he entered the room, he noticed that his wife was lying on the bed in an undressed condition, with her salwar and cotton stole around her neck, with which she was

strangled. Accordingly, the Complainant lodged a Complaint / FIR as against unknown persons. During the course of investigation, statements of witnesses were recorded. However, it was as against unknown persons. It appears that when the Applicant was arrested on 20.12.2013 in connection with another C. R., being C. R. No. 570 of 2013, he disclosed the commission of the aforesaid offences alongwith other co-accused. Pursuant thereto, the Applicant was arrested in the present C. R. i. e. C. R. No. 160 of 2014. During the course of investigation, the statement of the Chairman of the Society where the deceased was living was recorded which shows that he had seen the Applicant alongwith his friend going towards 'F' Wing, where the deceased was staying. The said witness has stated that he had earlier not disclosed the same, since the Applicant and his friend were known to him and did not suspect them. The camera that was stolen from the house of the deceased was given by the Applicant to his friend, pursuant to which his friend produced the said camera.

6. Considering the material on record and serious allegations as against the Applicant, this is not a fit case to enlarge the Applicant on bail. Hence, the Application stands rejected. However, having regard to the fact that the Applicant is in custody since 2013, the trial of the Applicant is expedited. Learned Judge to conclude the case as expeditiously as possible and in any event within nine months from the

date of receipt of this order. Judicial notice is also taken of the fact that the trial of C. R. No. 570 of 2013 (S. C. No. 124 of 2014) has not commenced till date, as one of the co-accused is absconding. It is always open for the learned Judge seized of the said case, to separate the trial and proceed with the case, in accordance with law. The said case also to be concluded within nine months. Learned APP as well as Registry to forward a copy of the order both to the learned Judge seized of the case as well as to the Applicant who is lodged in Adharwadi Jail, Kalyan.

7. 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.

(REVATI MOHITE DERE, J.)