

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

CRIMINAL BAIL APPLICATION NO.1941 OF 2019

Sanjivkumar Alias Sonu ... Applicant

Versus

The State of Maharashtra Respondent

Mr. Diwakar Dwivedi a/w Sunita Varma for the Applicant.
Mr. P. H. Gaikwad-Patil A.P.P for the Respondent - State.

PI – Mr. Ranivr Bayes, Crime Branch, Unit 1, Thane.

CORAM : REVATI MOHITE DERE, J.
DATE : 26th SEPTEMBER, 2019

PC. :

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 (Coram : Prakash D. Naik, J.) in Criminal Bail Application No. 3162 of 2018. Similarly, co-accused Ashok Shukla has also been enlarged on bail vide order dated 1st August, 2019, passed by this Court in Criminal Bail Application No. 1541 of 2019.

4. Learned APP does not dispute that the role of the applicant is similar to that of co-accused Ashok Shukla and Bhaskar Nurangikar, who have been enlarged on bail.

5. Perused the papers, in particular, the orders dated 30th January 2019 and 1st August 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 a 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 train. Similarly placed co-accused-Bhaskar and Ashok, who were also present at the time when the deceased was kidnapped and was assaulted, have been released by this Court. 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.