

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.2124 OF 2019

Santosh Laxman Vaid

Applicant

versus

The State of Maharashtra

Respondent

Ms.Mallika A. Ingale for applicant.

Mr.S.S.Pednekar, APP, or State.

CORAM : PRAKASH D. NAIK, J.

DATE : 18th December 2019

PC :

1. The applicant is arrested in connection with CR No.299 of 2018 registered with Manchar Police Station for offences under Sections 302, 201, 143, 147, 149 of IPC and Sections 37(1)(3) and 135 of Mumbai Police Act. The applicant was arrested on 23rd July 2018.

2. The prosecution case is that on 26th June 2018 the complainant i.e. the wife of the deceased was informed by Suresh Kapadi that her husband had fallen in gutter in Kathapur. The police were informed. The body of the deceased was recovered and sent for post mortem. Accidental death was registered. On 27th June 2018 one Kailas Ponde informed the complainant that the applicant had taken her husband at Nimantran Hotel on the evening of 26th June 2018. The complainant made inquiries with the applicant and asked him about her husband. The applicant had allegedly informed her that both of them had visited Nimantran Dhaba. The other accused were also there at Dhaba. One Ram Walunj had

assaulted the victim and told him to go home. Statements of witnesses were recorded. The accused Popat Kapdi was having grudge against the deceased due to property dispute. The accused assaulted the deceased. On 14th July 2018 Kailas Gaikwad had informed the complainant that he had seen the deceased along with accused at the spot on 25th June 2018. During the course of investigation the recorded conversation between the applicant and the co-accused was recovered. On completing investigation charge sheet is filed.

3. Learned advocate for applicant submitted that there is no cogent material against applicant about his involvement in the crime. The co-accused Pandurang Karande has been granted bail by this Court. Other accused were granted bail by this Court. Except the applicant, all other accused are on bail. Learned counsel also relied upon opinion sought by investigating agency about cause of death and the circumstances in which the death is possible.

4. Learned APP submitted that there is sufficient evidence against applicant to show his involvement. The case is based on circumstantial evidence. The complainant's statement refers to the fact that applicant and deceased had travelled together on the date of incident on motorcycle. There is evidence of last seen together. The statement of witnesses indicate that the applicant and deceased had left together and thereafter dead body was found. The conversation between the applicant and co-accused Pandurang Karande reveals suspicion about the conduct of applicant and indicate that they were involved in the crime.

5. I have perused the evidence on record. Except last seen together there is no strong evidence against applicant. The opinion sought by police mentions that the deceased had died due to drowning. Other questions put up for opinion were not answered with clear opinion. It is stated that there is possibility that person can fall by loosing his balance and the possibility of pushing him also cannot be ruled out. While granting bail to co-accused Pandurang Karande, this Court vide order dated 13th August 2019 in Bail Application No.506 of 2019 has referred to the statement of applicant and co-accused with regards to conversation between them recorded on 28th June 2018. It is further observed that the post mortem report speaks of cause of death as asphyxia due to drowning. Certain injuries were noticed on the body of deceased, which the Doctor has opined as caused due to fall in the water. The post mortem report speaks about two liters of water in the stomach of the deceased. Pandurang and all other accused are granted bail by this Court.

6. Considering the nature of evidence, further detention of the applicant is not required and case for grant of bail is made out. Hence, I pass following order :

ORDER

- (i) Criminal Bail Application No.2124 of 2019 is allowed and disposed of;
- (ii) The applicant is directed to be released on bail in connection with CR No.299 of 2018 registered with Manchar Police Station, on furnishing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;

- (iii) The applicant shall report Manchar Police Station once in a month on every first Saturday between 10 am and 12 noon till further orders;
- (iv) The applicant shall not tamper with evidence and shall attend Trial Court proceedings regularly, unless exempted by the Trial Court for some reasons.

(PRAKASH D. NAIK, J.)

MST