

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

BAIL APPLICATION NO.2170 OF 2019

Pramod Shrimant Kashid Applicant

versus

The State of Maharashtra Respondent

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- Mr. Niranjan Mundargi a/w. Yogesh G. Thorat I/b. Sachin B. Thorat, Advocate for Applicant.
- Ms. S. S. Kaushik, APP for the State/Respondent.
- Mr. S. H. Markad, PC 2273, Lonikand Police Station, Pune present.

CORAM : SARANG V. KOTWAL, J.

DATE : 19th AUGUST, 2019

P.C. :

1. The applicant is seeking his release on bail in connection with C.R. No.324/2018 registered with Lonikand Police Station, Pune under Sections 302, 201 r/w. 34 of IPC.

2. The FIR is lodged by one Mithun Kand who was owner of the room where the deceased Dattaram Bhosale was staying as a

tenant. He was informed by his another tenant on 24/3/2018 that the room given to Datta was locked and a bad smell was emanating from inside. The first informant went there and opened the door. The deceased was lying dead and his throat was slit. Therefore, the FIR was lodged and the investigation was commenced. The applicant was arrested on 28/3/2018. The investigation is over and the chargesheet is filed.

3. Heard Mr. Niranjana Mundargi, Ld. Counsel for the Applicant and Ms. Kaushik, Ld. APP for the State.

4. Mr. Mundargi submitted that the case is based on circumstantial evidence and the circumstances are not enough to raise suspicion against the present applicant.

5. Ms. Kaushik on the other hand submitted that there is statement of a witness showing that there was a quarrel between the deceased and the applicant. There is recovery of knife at the instance of present applicant which showed presence of human

blood. She further submitted that the deceased had suffered several injuries. Therefore, she opposed the grant of bail to the applicant.

6. With the assistance of the Ld. Counsel, I have gone through the entire chargesheet as well as post mortem notes and injury certificate produced before me. The P.M. and C.A. report are taken on record and marked 'X Colly' for identification.

7. The case is based purely on circumstantial evidence. There are no eye witnesses to the incident. Nobody had seen the culprits leaving the room after committing the murder. Nobody had actually seen the assault on the deceased. The prosecution is relying on the statement of one Krishna Chavan who was working with the deceased. He has stated that the present applicant and Atul Musale were residing with the deceased in the room where the offence had taken place. He has stated that prior to the incident, there was a quarrel between the deceased and the other persons including the present applicant after they had

consumed liquor. He has stated that there used to be frequent quarrels between them because of the dispute regarding money. The applicant and Atul Musale had left that room because of this dispute but still then they used to visit the deceased in his room from time to time.

8. This statement, at the most, shows that there used to be quarrel between the applicant and the deceased which provides some reason for animosity. However, the quarrel between the parties was not to such extent as would provide motive for commission of murder.

9. This witness has not given any further details in respect of any such quarrels regarding the date on which such quarrel had taken place. In any case, if at all, it is a weak piece of evidence against the present applicant. The next circumstance against the present applicant is the recovery of knife and some burnt clothes which were recovered at his instance on 28/3/2018. The applicant had led panchas and the police to village Sherewali

and those articles were recovered at his instance from below some stones, the clothes were burnt. The knife and the clothes were sent for chemical analysis. The CA report shows that the blood group of the deceased was not determined. The blood group on the clothes of the deceased as well as blood found on the spot also did not reveal any blood group. The analysis in that behalf remained inconclusive. Similarly, the knife did not show the presence of human blood. The blood group was inconclusive. Thus, at this stage, the knife cannot be strongly connected with the alleged offence. Apart from these two circumstances, there are absolutely no other incriminating circumstance against the present applicant. Thus, considering the weak nature of evidence against the present applicant, he deserves to be released on bail. Hence, the following order.

ORDER

1. The applicant is directed to be released on bail in connection with C.R. No.324/2018 registered with Lonikand Police Station, Pune, on his executing P.R. Bond in the sum of Rs.25,000/- (Rs.Twenty Five

Thousand Only) with one or two sureties in the like amount.

2. The application is disposed of.

(SARANG V. KOTWAL, J.)