

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

CRIMINAL BAIL APPLICATION NO. 2333 OF 2019

Avinash @ Tappu Arjun Dhillpe & Anr. ...Applicants

V/s

The State of Maharashtra ...Respondent

Mr. Hrishikesh Mundargi i/b. Pravada Raut for the applicants.
Ms Geeta P. Mulekar APP for the State/Respondent.

CORAM : PRAKASH D. NAIK, J.

DATE : 4TH DECEMBER, 2019

PC :

1. This is an application seeking bail in connection with C.R. No. 287 of 2018 dated 7th December, 2018 registered with Govandi Police Station, Mumbai for offences punishable under Sections 302, 394, 364, 365, 201 r/w. 34 of Indian Penal Code, 1860 ('IPC' for short).

2. The applicants were arrested on 8th December, 2017. The prosecution case is that, on 2nd December, 2018 the brother of informant, Raju Gaikwad did not return home and he searched for him. On 3rd December, 2018, the informant received information from applicant no. 1 that on the night of 2nd December, 2018 at about 11.30 p.m., the accused and deceased went towards Vashi bridge. The deceased

stopped for smoking cigarette and jumped into Vashi creek. Missing report was lodged with Vashi Police Station. While informant was trying to search his brother, he received information from Amit Singh that on the night of 2nd December, 2018, the applicant along-with accused no. 3 had forcibly taken deceased from Sai Krupa Bar. The applicant no. 2 had accompanied him to various bars in the city in order to find deceased. When the informant asked the applicant no. 2 as to why he pretended to search the deceased along-with him, when he knew that deceased had jumped into Vashi creek, the accused stated that he was scared. The informant alleged that he was mislead by the accused. FIR was registered for offences punishable under Sections 302, 394, 364, 365, 201 r/w. 34 of IPC.

3. The applicants preferred an application for bail before the Sessions Court. The said application was rejected by order dated 26th June, 2019.

4. Learned Advocate for the applicants submitted that the applicants have been falsely implicated in the case. There is no eye witness to the incident. There was no motive to commit murder. The applicants and the deceased

were friends. There were no injuries on the body of the deceased. Deceased committed suicide by jumping into creek only on account of alleged quarrel between the applicants and the deceased. It cannot be inferred that he was killed by the accused by pushing him into creek. It is submitted that the applicants are in custody from the date of arrest, further custody is not required. The case is based on circumstantial evidence.

5. Learned APP submitted that there are strong circumstances against the applicants showing their involvement in the crime. The applicant no. 2 had mislead the complainant. The complainant went on search to find out the deceased to find out his brother. According to the complainant, he received a call from the applicant no. 1 that the victim had jumped into the creek. However, the applicant no. 2 was along-with the complainant when he was searching the victim. The applicants not informed about the said fact on 3rd December, 2018. The applicant no. 2 tried to give explanation that he was scared and did not inform about the fact that the victim had jumped into creek. During the course of investigation, statement of various witnesses were recorded. On 8th December, 2018

CCTV footage of Mahadev Bar and Restaurant was obtained by the police. It shows that on 2nd December, 2018 the missing person Raju Gaikwad was accompanied by the accused. He was dragged by the accused from the staircase and assaulted. On 6th December, 2018 dead-body was found by Yellow Gate Police Station. The complainant identified the dead-body. The applicants were arrested on 8th December, 2018. Gold earring was recovered from the spot of incident. Gold chain was recovered from the accused Krishna Sutar. Two wheeler was recovered from applicant no. 1. CCTV footage of Gaondevi Chowk, situated at Govandi was obtained. Identification parade was conducted on 18th January, 2019 and the applicants were identified by the witnesses. In the past one case each registered against the applicants with Tilak Nagar Police Station and Govandi Police Station in 2017 and 2014. CCTV footage at Mahadev Bar and Restaurant shows that the accused were drinking liquor together and thereafter the victim was forcibly taken out of the hotel. He was forced to sit on motorcycle and they were sitting on the same bike with the victim at Gaondevi Chowk. Statement of witnesses shows that the accused were taking away the victim on motorcycle. They identified the accused in Test

Identification parade. Thus, there are strong circumstances showing the involvement of the applicants in the crime. Hence, no case for grant of bail is made out.

ORDER

(i) Bail Application No. 2333 of 2019, stands rejected.

(PRAKASH D. NAIK, J.)