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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.2145 OF 2018

Shravan Vedu Wanjule ..Applicant.

V/s.

State of Maharashtra ..Respondent.

Mr.Ganesh Gole I/b. Shirodkar Ateet for the applicant.

Mr.N.B. Patil, APP for the respondent-State.

Mr.R.A.Sonawane, P.I. Trimbaksher police station.

CORAM : NITIN W. SAMBRE, J.

DATE : JANUARY 24, 2019

P.C.:-

Heard learned counsel for the applicant and learned APP for the State.

2. Victim Mubarak, a waiter was murdered by suppressing his identity. Accused No.1 Ramdas Wagh alleged to have manipulated said event by impersonating himself. Intention behind the murder was to encash the insurance (claims) by substituting the identity of accused No.1 to that of deceased. The same resulted in registration of the crime in question.

3. The present applicant came to be arrested on June 27, 2017 in crime No.63/2017 for offence punishable under sections 302, 201, 363 and 120B of the Indian Penal Code registered with Trimbakeshwar police station, Nashik and was charge-sheeted.

4. Learned counsel for the applicant submits that case of the prosecution as far as the role attributed to the applicant is concerned, is based on circumstantial evidence and the statement of co-accused. According to him, the statement of co-accused cannot be considered for prosecuting the charge. According to him, statement of co-accused can be used only in aid of investigation. As such, according to him, based on the circumstantial evidence, it cannot be inferred that the applicant is *prima facie* involved in the crime in question, for want of any criminal intention.

5. Learned APP strenuously opposed the application for bail on the ground that accused No.1 Ramdas in categorical terms named the present applicant having played key role in the murder of deceased Mubarak. According to learned APP, accused No.1 and the present applicant-accused No.3 were to be benefited from the insurance policy which was drawn in the name of accused No.1

Ramdas. It is also claimed that other evidence on record to the extent of call given by the applicant to the complainant about the alleged death of accused No.1 Ramdas is sufficient enough to connect the applicant to the crime in question and as such prays for rejection of the application.

6. Considered rival submissions.

7. But for the statement of co-accused, there is no incriminating material place on record to infer *prima facie* involvement of the applicant in the crime in question. The only material which was laid before this Court to form an opinion against the applicant is, reference to the call made by the applicant to the complainant about the alleged death of accused No.1 Ramdas. There are no CDR record of the call details of the applicant and the complainant.

8. There are no criminal antecedents and the applicant is very much available for the prosecution as he appears to be a permanent residence of the place of commission of crime. As the case is based on circumstantial evidence, it *prima facie* does not infer involvement of the applicant. The application, therefore, deserves to be allowed. Hence the order:-

- i) The applicant be released on bail in Crime No.63/2017 for offence punishable under sections 302, 201, 363 and 120B of the Indian Penal Code registered with Trimbakeshwar police station, Nashik upon furnishing P.R. bond of Rs.25,000/- with one or two sureties in the like amount;
- ii) The applicant shall not influence the prosecution witnesses or tamper with the evidence;
- iii) The application stands disposed of accordingly.

(NITIN W. SAMBRE, J.)