

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

CRIMINAL BAIL APPLICATION NO.2360 OF 2019

Bhausahab Sitaram Akhade	Applicant
V/s.	
The State of Maharashtra	Respondent

Mr. Satyavrat Joshi i/b. Nitesh J. Mohite, for the Applicant.
Mr. H. J. Dedhia, APP for the Respondent- State.

CORAM : PRAKASH D. NAIK, J.

DATE : 09th December, 2019

P.C.:

1. The applicant is seeking bail in connection with C.R No. 208 of 2017 registered with Rajgad Police Station, Pune, for the offences punishable under Sections 302, 201 and r/w 34 of the Indian Penal Code ('IPC' for short). The first information report (FIR) was lodged on 21st November 2017 and the applicant was arrested on 23rd November 2017.

2. The prosecution case is that, the deceased is the sister of complainant. She was married to the applicant in April 2017. The applicant was having love affair with his niece and he had eloped with her on 10th October 2017. Subsequently, the deceased was

found murdered and her body was thrown in the valley. During the course of investigation, statement of witnesses were recorded and after completing investigation charge sheet is filed.

3. The learned advocate for the applicant submitted that, the applicant has been falsely implicated in this case. The applicant had filed missing complaint on 13th November 2017. There is no eye witness to the incident. The case is based on circumstantial evidence. The statement of the witnesses were recorded belatedly. The extra judicial confession of witness Navanath Margale was recorded on 22nd November 2017. It is submitted that, according to Navanath Margale he was aware about the alleged incident and involvement of the accused. However, he did not lodge any complaint to the police station. The recovery of Mangalsutra is not in accordance with Section 27 of the Indian Evidence Act,1872. The statements of two witnesses regarding evidence of last seen together were recorded belatedly. The case about eloping with niece has resulted in acquittal. The victim has not supported the prosecution case. The father of the victim had also not supported the prosecution case. The accused No.2 has been granted the bail. The weapon was recovered from the place of incident. There are no

strong circumstances to involve the applicant. The evidence has been created subsequently to implicate the applicant.

4. Learned APP submitted that, there are strong circumstances against the applicant. The missing complaint was lodged on 13th November 2017. There is evidence of last seen together. The statement of witness Navanath Margale is refers to extra judicial confession made by the applicant to him. He has also stated that the applicant-accused had taken sickle from his house. The applicant was not in the office on the date of incident for substantial time CDR record shows conversation between co-accused and applicant on the date of incident which also support the prosecution case that the applicant was not in the office on the date of incident at the relevant time.

5. Having heard both the sides and on perusal of documents on record, it is evident that the victim was married to the applicant about six months prior to the incident. The complaint was lodged against the applicant alleging that, he had eloped with his niece by father of victim. Accused No.2 is mother of said victim. The applicant was prosecuted for the said offence and the victim and her father had not supported prosecution case. Motive for killing deceased is that applicant had affair with his niece. Extra judicial

confession support the prosecution case. The statement of last seen of together and the other evidence in the nature of CDR with regards conversation between accused No. 1 and 2 tower locations are also strong circumstances showing involvement of the applicant. Hence, no case for grant of bail is made out.

6. Observations made in the order are only for considering the application for bail and trial Court shall not be influenced by same during trial.

ORDER

(i) Bail Application No.2360 of 2019, stands rejected.

(PRAKASH D. NAIK, J.)