

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2687 OF 2018**

Vashisht Laxmiprasad Pandey

...Applicant

Versus

State of Maharashtra & Anr.

...Respondents

Mr. R. A. Shaikh a/w Mr. Sharif S. Khan and Mr. K. D. Mishra for the Applicant

Mr. S. V. Gavand, A.P.P for the Respondent No.1-State

Ms. Rushita Jain a/w Mr. Abhishek Mishra for the Respondent No. 2

CORAM : REVATI MOHITE DERE, J.
THURSDAY, 1st AUGUST 2019

P.C. :

1 Heard learned counsel for the parties.

2 By this application, the applicant seeks his enlargement on bail in connection with C.R. No. I-271 of 2018 registered with the MIDC Police Station, Andheri, Mumbai, for the alleged offence punishable under Section 302 of the Indian Penal Code.

3 Learned counsel for the applicant submits that the only material *qua* the applicant is two extra judicial confessions allegedly made

by the applicant to the police constable as well as to a chance witness-Rohit Shetty. Learned counsel relied on a Division Bench Judgment of this Court in the case of ***Sitaram Vishnu Chalke vs. State of Maharashtra***¹ in support of the submission that extra judicial confession is a weak piece of evidence and that normally there should be sufficient corroboration to such evidence. He submits that in ***Sitaram Chalke (supra)***, the prosecution witness had asked the accused therein why he killed his father, to which the accused had replied and had made the extra judicial confession.

4 Learned A.P.P opposes the application.

5 Perused the papers. The prosecution case rests entirely on circumstantial evidence. According to the prosecution, the applicant was having an affair/illicit relations with the wife of the deceased-Vijay Shukla. According to the prosecution, both, the applicant and the deceased were serving in Sun Pharma Pvt. Ltd., as watchmen and that because of the illicit relations, the applicant assaulted the deceased with an iron pipe on the intervening night of 10th and 11th June 2018. It is the prosecution case that soon after the incident, the applicant locked the gate of the premises and

1 1993 Cr.L.J. 3364

informed the police about the deceased lying in an injured condition, pursuant to which, the police came to the spot. It appears from the prosecution case that the police asked the applicant about the blood stains on his person, pursuant to which, the applicant made an extra judicial confession that Vijay knew about the illicit relations between him and his wife, a couple of days prior, pursuant to which, there was a quarrel between them and that since then, he was looking for an opportunity to kill the deceased. The applicant is also alleged to have disclosed that he picked up an iron pipe, which was lying in the compound and assaulted the deceased two times and killed him. The said extra-judicial confession is made to the complainant i.e. PC Dnyandeo Pawar and to a chance witness-Rohit Shetty. It also appears that the applicant had called the employer-Shailesh Yadav on his own and disclosed that he had killed Vijay Yadav (deceased). There is recovery of a blood stained iron pipe at his instance. Apart from the extra-judicial confession and recovery of an iron pipe, blood stains were found on the clothes of the applicant, soon after the incident.

6 As far as the judgment relied upon by the learned counsel is concerned, the same would not apply to the facts of the present case.

7 Considering the aforesaid, this is not a fit case to enlarge the applicant on bail. Accordingly the application is rejected.

8 It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

REVATI MOHITE DERE, J.