

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

BAIL APPLICATION NO. 3076 OF 2019

Kailas Bhila Punekar

...Applicant

Versus

The State of Maharashtra

...Respondent

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Mr. Shailesh Kharat, Advocate for the Applicant.

Mr. S. H. Yadav, APP for the State-Respondent.

Mr. A.G.Pawar, PSI, Niphad Police Station, Nashik Rural, Present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 16th December, 2019

PC :

1. The applicant is seeking bail in connection with C.R. No.33 of 2018 with Niphad Police Station, Dist. Nashik for offences punishable under Section 302, 201 r/w 120 (B) of Indian Penal Code.
2. The FIR is lodged by the Sahebrao Jat who is brother of the deceased Champalal Jat. The prosecution case is that on 3rd April, 2018, the deceased had left the house at around 11.00 p.m. and he did not return home till next day. Therefore, The police were informed. The first informant went to the house of the deceased and learnt that wife of the deceased was taken by the police to Niphad. The first informant was also informed that the car of the deceased was found near the road in front of hotel Raigad. Dead body of the

deceased was lying in a ditch near the road. The first informant identified the body. The FIR was lodged on 4th April, 2018. The applicant and accused were arrested on 5th April, 2018. Statements of various witnesses were recorded. On completing the investigation, charge-sheet is filed.

3. The prosecution case is that accused was having love affair with the wife of deceased. The deceased came to know about the illicit relationship. He used to assault and harass his wife. This was brought to the notice of the accused No.1 and her brother (applicant). It is alleged that the co-accused Aakash Gangurde and Sanjay Baviskar bought petrol in blastic bottle. The deceased was taken to Manmad Railway Station on some pretext by the co-accused and thereafter he was assaulted by weapons. Subsequently, petrol was poured on his body and set on fire.

4. There is no eye witnesses to the incident. The case is based on circumstantial evidence. The prosecution case is relying on C.C.T.V. footage recorded in camera installed at platform No.3 at Manmad Railway Station. According to the prosecution co-accused Aakash Gangurde was seen in the company of the deceased at 2.00 to 3.00 a.m. in the night on 3rd April, 2019 and 4th April, 2019. The weapon was allegedly recovered from accused No.1 and 2.

5. Learned counsel for the applicant submitted that accused No.1 has been granted bail by this Court. There is no evidence against the applicant except the fact that the applicant is the brother of the wife of deceased. There is no evidence to show his involvement in the crime. He is in custody from the date of arrest.

6. Learned APP submitted that the applicant is brother of the wife of deceased. The accused No.1 had illicit relationship with the wife. On account of harassment by the deceased to his wife he was liquidated.

7. Undisputedly, there is not eye witnesses to the incident. There is no recovery from the applicant. Applicant was implicated on suspicious being brother of co-accused. The co-accused has been granted bail by this Court. In these circumstances case for grant of bail is made out.

8. Hence I pass the following order.

ORDER

- i) Bail Application No.3076 of 2019 is allowed;
- ii) The applicant is directed to be released on bail in connection with C.R. No.33 of 2018 with Niphad Police Station, Dist. Nashik on furnishing PR.

bond in the sum of Rs. 25,000/- with one or two sureties in the like amount;

iii) Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)