

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 1388 OF 2020
IN
CRIMINAL APPEAL NO. 468 OF 2020**

Arun Balaso Chavan

...Applicant/
Appellant

Versus

The State of Maharashtra

....Respondent

Mr. Rahul S. Kate, advocate for the applicant/appellant.

Mr. A. R. Patil, APP for the State.

**CORAM : PRASANNA B. VARALE &
V. G. BISHT, JJ.**

DATE : 17th DECEMBER, 2020.

P.C. :

1. This is an application with a prayer for grant of bail to the applicant pending appeal. Mr. Kate, learned counsel for the applicant, vehemently submitted before this Court that the learned trial Court erred in appreciating the evidence. The evidence of the so called witnesses on the point of last seen theory is not acceptable as the statement of these witnesses is recorded belatedly. The learned counsel also made an attempt before this Court to critically examine the evidence brought before the trial Court in support of his submissions.

2. On perusal of the judgment and order passed by the trial Court, we find that though it is true that the case of the prosecution is based on

circumstantial evidence but we are unable to accept the submission of Mr. Kate, learned counsel for the applicant, in respect of the evidence in the form of witnesses on the point of last seen theory. Two witnesses viz. PW-6 and PW-7 are the witnesses fully supporting the case of the prosecution, particularly, on the aspect of last seen theory. Apart from these two witnesses, the case of the prosecution is also supported through the witnesses of Cell Phone Company's Nodal Officers on the aspect of the conversation on mobile phone between the deceased and the accused and it was brought before the Court below that the accused was using two mobile phones and the conversation with the deceased was established with supporting material. Then, there is also material in the form of recovery of clothes and weapon allegedly used in the commission of the offence.

The other submission of Mr. Kate, learned counsel for the applicant, in respect of in-depth analysis of the evidence is concerned, certainly this exercise can be undertaken at the time of final hearing and disposal of the appeal and this Court cannot undertake this exercise at this stage viz. considering the application for bail.

Considering all these grounds, we are of the opinion that the application is devoid of merits. Resultantly, the application is rejected.

3. All concerned will act on production by fax or email of a digitally signed copy of this order.

(V. G. BISHT, J.)

(PRASANNA B. VARALE, J.)