

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

BAIL APPLICATION NO.2193 OF 2019

Rehman @ Jafar Rajmohammad Shaikh	.. Applicant
<i>Vs.</i>	
State of Maharashtra	.. Respondent

.....

Mr.Priyal G. Sarda, Advocate for the Applicant.

Mrs.Geeta P. Mulekar, APP for the Respondent – State.

.....

CORAM : PRAKASH D. NAIK, J.

DATED : JANUARY 16, 2020.

P.C. :

This is an application for bail in connection with C.R.No.307 of 2018, registered with Vishrantwadi Police Station, Pune, for the offences punishable under Section 302 and 201 read with 34 of Indian Penal Code (“IPC”, for short).

2 First Information Report (“FIR”, for short) was lodged on 7th December, 2018. In the FIR, it is stated that on 6th October, 2018, the complainant had received phone call from deceased Anil Dhotre. At that time, he had inquired about the whereabouts of the complainant. On the next day, the complainant was

informed that Anil Dhotre had been murdered. He went to the place when the dead body was found, which is identified to be of Anil Dhotre. Postmortem was conducted on the deceased. However, 21 injuries were sustained by him. Statements of witnesses were recorded. On completing investigation, charge-sheet is filed.

3 Learned advocate for the applicant submitted that the entire case is based on circumstantial evidence. There is no eye witness to the incident. The circumstances are not so strong to show the complicity of the applicant in the crime. It is submitted that the theory of last seen together cannot be used against the applicant. It is a piece of evidence. He relied upon the decision of the Supreme Court in the case of ***Kanhaiyalal Versus State of Rajasthan***¹. It is submitted that the statement of the sisters of the deceased was recorded on 8th October, 2018. She has fairly stated that she had heard the conversation when she called deceased at about 1:30 a.m. The version of the said witness is vague and cannot be relied upon. It is further submitted that the statement of Rahul relied upon by the prosecution was recorded on 9th October, 2018. It does not relate to any inference as a strong evidence to implicate the applicant. There is no CDR in

1 (2014) 4 SCC 715

respect to the calls made by Rajeshree (sister of the deceased) on the night of the incident at about 1:30 a.m. The statement of Rajashree, therefore concocted by the prosecution to implicate the applicant. The other evidence on record is of weak nature. Recovery of weapons do not determine that the blood found on the weapon is that of the deceased.

4 Learned APP submitted that there are several circumstances against the applicant. Statement of Rahul recorded on 9th October, 2018, refers to the fact that the applicant was last seen with the deceased. It is further submitted that the last conversation between the sister of the deceased and the deceased was referred by witness Rajeshree. She has heard the deceased referring to the name of the accused. It is further submitted that there is recovery of blood stained sickle from the applicant, which is used in the crime. The CA report indicate that the blood found on the sickle was human blood. It is further submitted that the injuries sustained by the deceased were in the nature of chop. He further submitted that the cloths of the applicant were recovered during the course of investigation and blood was found. There were several blood stains. The CA report mentions that the blood found on the cloths were human blood.

Statement of Sanjay Pawar was recorded on 8th October, 2018, and the statement of other witness Vinod Manjarekar was recorded on 10th October, 2018, who also implicates the applicant in the crime. There are three other cases registered against the applicant and externment proceedings are initiated against him.

5 I have perused the documents on record. The circumstances relied upon by the prosecution are strong enough to deny bail to the applicant. Statement of Vinod Majrekar although recorded on 10th October, 2018, indicate that the applicant was seen by him in the vehicle and at that time, the other person Rahul Manjarekar had handed over weapon to him, which was kept by him. The statement of sister of the deceased was recorded immediately on next day i.e. on 8th October, 2018, which is also the circumstances against them. The applicant was last seen together with the deceased, which was recorded in the statement of Rahul Manjarekar dated 10th October, 2018. Apart from that, there is recovery of blood stained cloths indicating that the blood was human blood. There was also recovery of sickle from the applicant. Considering the postmortem report with regards to the nature of injuries, there is strong circumstance against the applicant. Taking into consideration all

circumstances, *prima facie* involvement of the applicant is disclosed. Hence, no case for grant of bail is made out. The application is rejected.

(PRAKASH D. NAIK, J.)