

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

CRIMINAL BAIL APPLICATION NO. 2261 OF 2019

Radhikesh Shivaji Pawar	...Applicant
Versus	
The State of Maharashtra	...Respondent

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Mr. Y. J. Master a/w Mr. Prakash Mahadik, Advocate for the Applicant.
Smt. Veera Shinde, APP for the State-Respondent.

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CORAM : PRAKASH D. NAIK, J.
DATE : 17th January, 2020

PC :

1. The applicant is seeking bail in connection with C.R. No. 312 of 2017 registered with Bharti Vidyapeeth Police Station, Dist. Pune for offences punishable under Sections 302, 201 r/w Section 34 of Indian Penal Code.
2. The FIR was lodged on 29th June, 2017 by Himmatrao Mohite. The first informant was working as a watchman at Nancy Lake, Katraj. On 29th June, 2017 he had noticed dead body of unknown person assaulted on head and face which was disfigured. The FIR was registered against unknown person. Subsequently, statements of witnesses were recorded. The father of the deceased had visited Bibwewadi Police Chowki to file missing report of his son Amar Mahadik (deceased). Police showed him the photograph of deceased

and the information received from Bharti Vidypeeth Police Station. He was taken to morgue and there he had identified the dead body of his son Amar. His statement was recorded. The applicant was arrested on 29th June, 2017. Statements of other witnesses were recorded. On completing investigation charge-sheet is filed.

3. Learned Advocate for the applicant submitted that the applicant is in custody for a period of about more than two and half years. There is no evidence against the applicant. The case is based on circumstantial evidence. There is no eye witness to the incident. The circumstances relied upon by the prosecution are weak and not sufficient to establish the involvement of the applicant in the crime. Co-accused Ravi Botre has been enlarged on bail by this Court vide order dated 25th July, 2018. The applicant may not be detained further on the basis of weak evidence. There are no antecedents against the applicant. There is no conclusive proof, motive or evidence against applicant. The trial has not commenced.

4. I have gone through the charge-sheet. It is true that there is no eye witness to the incident and the case is based on circumstantial evidence. The prosecution case is based on the fact that there was motive for the applicant to commit this crime. The deceased Amar is the brother of Ashwini. There was alleged affair between Ashwini

and the applicant. On account of the conduct of applicant she discontinued his relationship with him. The deceased had confronted applicant. Hence, applicant had grudge against him. During the course of investigation, statement of father of deceased was recorded. In that statement he has referred to relationship between his daughter Ashwini and the applicant. He has stated that he had inquired with applicant and questioned whether he would marry Ashwini. He declined. Hence, Ashwini had discontinued to be friendly with the applicant. It is also stated that the applicant had threatened Ashwini. He was stalking her. There is reference of threats issued to Ashwini, Amar and father of deceased. Statement of Ashwini also mentions about threats issued to her by the applicant. She has referred to relationship with applicant. She also stated that the applicant had threatened that he would throw acid on her. She has referred to threats issued to her and family members. The said statement attributes motive to the applicant. During the course investigation statement of Yogesh Bhangе was recorded on 30th June, 2017. He has referred extra judicial confession made by applicant. He has also stated that on the day of incident he had seen blood stains on the jacket of the applicant. The statement of Tanaji Pawar recorded on 30th June, 2017 is similar. During the course of investigation, memorandum statement of the applicant was recorded

with regards to recovery of cloths of the applicant and co-accused. There is reference of blood stains on the cloths. There is also recovery of motorcycle used in the crime from the applicant. The statement of Sandip Sonwane refers to the fact that the applicant was in company with the deceased. The C.C.T.V. footage shows that at relevant time the applicant and the co-accused had proceeded together and had returned after some time. Although this Court had granted bail to Ravi Botre, the application for bail preferred by Nikhil @ Banti Balasaheb Bibve was rejected. There are strong circumstances to show involvement of the applicant in this case. Considering the material on record, no case for grant of bail is made out.

ORDER

Bail Application No. 2261 of 2019 stands rejected and disposed of accordingly.

(PRAKASH D. NAIK, J.)