

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

CRIMINAL BAIL APPLICATION NO. 2313 OF 2019

Rushikesh Balasaheb Gore

...Applicant

V/s

State of Maharashtra

...Respondent

Mr. Abhishek R. Avachat for the applicant.

Mr. S. H. Yadav, APP for State/respondent.

CORAM : PRAKASH D. NAIK, J.

DATE : 27th JANUARY, 2020.

PC :

1. The applicant is seeking bail in C.R. No. 339 of 2018, registered with Satpur Police Station, Nashik, for the offences punishable under Sections 302, 201 and 120(B) of Indian Penal Code, 1860 ('IPC' for short).

2. The case of the prosecution is that the informant is resident of Pimpal Gaon, Nashik. He states that he stays with parents, sister and younger brother Santosh (deceased). According to him, Santosh was school dropout, on 8.12.2018, complainant returned from his work. Santosh left house. He did not return till 9.12.2018. First informants sister stated that Santosh had come home at about 4.30 p.m., with one boy. He returned motorcycle to him. Santosh went inside the house. He changed his clothes and was talking with landlord. At that time another boy came on motorcycle. Santosh left with both of

them on motorcycle. First informant went to Satpur Police Station to lodge missing complainant. He was told that dead body of a boy is found in a farm near Belgaon Dhaga Village. He proceeded to that place and saw his brother's dead body. He was having multiple injuries /stab wounds on his body. First Information Report (FIR) was lodged against unknown persons. Investigation was conducted. Accused were arrested. On completing investigation, charge-sheet was filed.

3. The prosecution is relying on extra-judicial confessions of the applicant. The body of deceased was spotted by Raju Bahrwad who was grazing cattle near Belgaon Dhaga Village. He informed the Sarpanch of the village. Inquest panchanama was recorded. Spot panchanama was recorded. Blood stained clothes, two knives/daggers recovered. Statement of witnesses were recorded. Spot panchnama was conducted. The body was found in the farm belonging to Shyam Lahoti. Shoe was found about 100 meters away from the body. Ear ring was found near the said shoe. Charge-sheet was filed.

4. Learned counsel for the applicant submitted that there is no evidence against the applicant. The case is based on circumstantial evidence. Circumstances are weak. There is no strong evidence to

show the complicity of the applicant in the crime. He is involved on suspicion. The recovery was from open place. Statement of witnesses are contradictory to each other. Recovery of two knives is shown at the behest of the present applicant. He had allegedly confessed to the crime which led to discovery of weapons. The knives are shown from open space. Circumstances are required to be fully established. The last seen evidence cannot be believed. There are discrepancies in the statement of witnesses. The applicant is young boy aged about 19 years. Investigation is completed. According to Sonali (sister of deceased) she had seen her brother-Santosh with two boys who accompanied him from house. Statement of Sonali recorded after three days. She had last seen her brother Santosh with two boys. First informant has not stated about the motorcycle on which Santosh left. Statement of Ajay Zagade was recorded on 12.12.2018. He stated that the applicant was dropped near farm land located near Belgaum Dhaga Village. He saw applicant's friends statement is also recorded under Section 164 of Cr.PC. His supplementary statement was recorded. Statement of Shubham was recorded on 12.12.2018. His statement is also recorded under Section 164 of Cr.PC. The version of the witnesses is doubtful and do not inspire confidence. The recovery of blood stained clothes was after six days from the incident. Recovery is from open place. There are no antecedent against the applicant.

5. Learned APP submitted that there are strong circumstances against the applicant. Submissions about the discrepancy in evidence and contradictions cannot be considered at this stage.

6. Weapon used in the crime is recovered at the instance of the applicant. Victim was brutally assaulted. His throat was slit with knives. There are multiple injuries on the body of deceased. The offence is of serious nature. There is evidence in the nature of extra-judicial confessions. There are strong circumstances showing involvement of applicant. There was motive for the applicant to commit murder. The grounds agitated by the learned counsel for the applicant are to be adjudicated during trial. Hence, no case for grant of bail is made out.

7. Hence, I pass the following order:

ORDER

(i) Bail Application No. 2313 of 2019, is rejected;

(PRAKASH D. NAIK, J.)