

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

CRIMINAL BAIL APPLICATION NO.2341 OF 2019

Prasad Jagannath Rauth

....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Prakash N. Wagh, for the Applicant.

Mr. S. R. Agarkar, APP for the Respondent-State.

Mr. Jitendra Kamble, PI, SBI, CID Zone, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 12th March, 2020

P.C.:

1. The applicant is arrested on 21st February 2017 in connection with C.R.No.72 of 2017 registered with Goregaon Police Station, for offences punishable under Section 302 of Indian Penal Code ("IPC" for short) and Sections 32(1), (A), 135 of Maharashtra Police Act.

2. The case of the prosecution is that, on 20th February 2017 at about 8.45 p.m the applicant had called his wife in the market and committed her murder by giving blows with sharp edge weapon on her neck and chest. It is alleged that the applicant was suspecting character of deceased. The FIR was lodged with Goregaon Police

Station on 21st February 2017. The statement of witnesses were recorded. Investigation is completed. Charge-sheet is filed.

3. The contention of the applicant is that, he has been arrested in this case only on the basis of suspicion. There is no motive to kill his wife. It is not established that the applicant is the assailant who has assaulted the wife. During the course of investigation, the statements of some witnesses were recorded who had allegedly seen the incident of assault. However, there is no identification parade to establish that the applicant has been identified as assailant who assaulted the deceased.

4. Learned APP submitted that, there is evidence in the form of CDR location and recovery of knife and cloths from the applicant. The applicant has motive to kill his wife as he was suspecting on her character. The tower location indicates that the applicant was near the place of incident. Knife is recovered from him.

5. Undisputedly, there is no test identification parade. Statement of rickshaw driver was recorded. According to him deceased and one person were waiting for rickshaw. They were talking to each other. When rickshaw driver went to the Pan-Tapri for purchasing Pan, one person assaulted the deceased and ran away. Similar statement of the other witnesses were also recorded. However,

those witnesses have not established the identity of the applicant as a person who assaulted. The C.A Report is inconclusive. The house of the deceased was in the Goregaon East and the incident had occurred in Goregaon West. Merely on the basis of tower location, which indicates that the applicant was near the spot of incident, applicant can not be detained further in custody. He is in custody since last three years. Considering the aforesaid circumstance, case for grant of bail is made out.

ORDER

- (i) Bail Application No.2341 of 2019 is allowed.
- (ii) The applicant is directed to be released on bail in connection with C.R.No.72 of 2017 registered with Goregaon Police Station, on furnishing P.R bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant shall report concerned police station once in a month on every first Saturday between 11:00 a.m. to 01.00 p.m. till further orders;
- (iv) The Bail Application stands disposed of.

(PRAKASH D. NAIK, J.)