

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

**CRIMINAL BAIL APPLICATION NO. 3111 OF 2019**

Adinath Lala Khape

...Applicant

Versus

The State of Maharashtra

...Respondent

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Mr. Aniket U. Nikam a/w. Piyush Toshnival, Advocate for the Applicant.

Mr. S. H. Yadav, APP for the Respondent – State.

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**CORAM : PRAKASH D. NAIK, J.**

**DATE : 28<sup>th</sup> February, 2020**

**PC :**

1. This is an application for bail in connection with C.R. No. 73 of 2017, registered with Talegaon MIDC Police Station, Pune for the offences punishable under Sections 120(B), 143, 144, 149, 302 of Indian Penal Code, 1860 ('IPC' for short) and Sections 4 and 25 of Arms Act, 1959 and Sections 37(1)(3) r/w. 135 of Maharashtra Police Act(Amendment) Act, 2015. The applicant was arrested on 5<sup>th</sup> October, 2017. Since then he is in custody.

2. The case of prosecution is that, deceased is son of the complainant. He was looking after poultry business. On 28<sup>th</sup> September, 2017, the deceased left the house. Subsequently, it was learnt that, he was lying unconscious in an injured condition. He

succumbed the injuries. The First Information Report ('FIR' for short) was registered on 28<sup>th</sup> September, 2017. Investigation was conducted.

3. The case is based on circumstantial evidence. There is no eye witness to the incident. The prosecution is relying upon the statement of wife and relative of deceased. According to them the applicant and others were making enquiry about deceased prior to incident. Both the persons have identified the applicant. It is also alleged that there is recovery of weapon, at the instance of the applicant. The clothes were also recovered from him. However, there are no blood stains on the clothes. The C.A. report with regards to the blood found on the weapon recovered is inconclusive.

4. Learned Advocate for the applicant submitted that, the co-accused Vishal Talape, whose case is similar to the applicant has been granted bail by this Court, vide Order dated 27<sup>th</sup> February, 2019 passed in Bail Application No. 2075 of 2019. It is further submitted that, the other accused namely, Yogesh P. Sawale, Vijay V. Talape were granted bail by the Sessions Court.

5. Learned APP submitted that, there is evidence against the applicant. The accused has made extra-judicial-confession. Applicant was making enquiry about the house of the deceased prior

to the incident. There is also recovery of weapon and clothes from the applicant. He was identified by two persons. The supplementary statement of those two witnesses were not recorded after the T.I. parade. The version of those two witnesses is that prior to the incident, the accused-applicant and the co-accused were making enquiries about the deceased near his residential premises. The Court while granting bail to the co-accused Vishal Talape has taken into consideration the fact that, there is evidence of extra-judicial-confession and there is recovery of clothes from the said accused. The Court also considered the fact that, there were statement of two witnesses with regards to the presence of the applicant near the house of deceased and making enquiries about deceased. Distinguishing feature is that, one of the witness had not identified the co-accused-Vishal Talape and the applicant was identified by both witnesses. The identification is with regards to fact that applicant was making enquiry about whereabouts of deceased. Accused are on bail. The applicant is in custody from 5<sup>th</sup> October, 2017 i.e. period of about more than two years. In the circumstances, bail can be granted to the applicant.

6. Hence, I pass the following order:

**ORDER**

- i) Bail Application No. 3111 of 2019, is allowed;
- ii) The applicant is directed to be released on bail in connection with C.R. No. 73 of 2017 Talegaon MIDC Police Station, Pune on furnishing P.R. bond in the sum of Rs. 25,000/- (Rupees Twenty Five Thousand) 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 am. to 1.00 pm. till further order.
- iv) Bail Application stands disposed of accordingly.

**(PRAKASH D. NAIK, J.)**