

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.3485 OF 2019

1. Ameer Imtiyaj Mujawar, Age 25 years,
R/o.In front of Pirache Mandir, Pirwadi,
District Satara.

2. Aniket Balasaheb Mane, Age 20 years,
R/o.In front of Pirache Mandir, Pirwadi,
District Satara.

(Both are lodged in jail)

Applicants

versus

The State of Maharashtra

Respondent

Mr.H.S.Venegaokar i/by Babita P. Pandey for applicants.

Mr.H.J.Dedhia, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 31st January 2020

PC :

1. This is an application for bail in CR No.147 of 2019 registered with Satara City Police Station for offences under Sections 302, 201, 143, 147, 148, 149 of Indian Penal Code and under Sections 37(1) (3) and 135 of Maharashtra Police Act. The applicants were arrested on 14th March 2019.

2. The prosecution case is that on 3rd March 2019 the deceased Mandar Nagarkar left house for bringing his salary. He returned in the afternoon. Thereafter he again left house at about 4.30 pm. He did not return home till 8 pm. The first informant tried to call him. However, calls were unanswered. Subsequently she received call from Civil Hospital. She went to the hospital along with neighbours.

Friend of her son were also present at the hospital. She identified the body of the deceased. During the course of investigation it was transpired that the deceased went to purchase beer from beer shoppe at Bombay Restaurant Chowk. There was hot exchange of words between the accused and the deceased. Subsequently the deceased went to Pirwadi to watch body building event. Again there was altercations between the deceased and the accused. Thereafter the accused took the deceased along with them on the motorcycle and on the next date he was found dead. It is alleged that the deceased was taken to secluded place and was murdered by the accused. During the course of investigation statements of witnesses were recorded. On completion of investigation charge sheet was filed.

3. Learned counsel for applicants submitted that the case is clearly based on circumstantial evidence. There is no witness. There is no incriminating recovery from the applicants. Except last seen together, there is no evidence to establish the involvement of applicants in the crime. There was no motive to commit murder of the deceased. There are no call records. The applicants have no criminal antecedents. There are no independent witnesses or evidence to establish that the applicants have killed the deceased. There is no evidence to show that the applicants were present at the scene of offence at the time of assault.

4. Learned APP submitted that there are strong circumstances to implicate the applicants in the crime. There are witnesses who have last seen the deceased in the company of the accused-applicants. The deceased had visited the beer shoppe. There was quarrel between the applicants and the deceased. The said fact is recorded in the

CCTV footage. The statements of persons from the beer shoppe support the prosecution case. The statements of bouncers who were deputed at the event of body building, had seen the deceased in the company of accused. There was a quarrel between them. The accused took the deceased with them and thereafter on the next day morning he was found murdered and his body was burnt.

5. On perusal of the evidence it is apparent that the case is based on circumstance of last seen together. The evidence relied upon by the prosecution is that there was quarrel between the deceased and accused at the beer shoppe, which was subsequently followed by quarrel at the body building event. It is further alleged that the accused and the deceased left together. However, beyond that there is no other incriminating evidence to show complicity of the applicant. On the basis of evidence of last seen together, the inference is drawn that the deceased was killed by the accused. The motorcycle of the deceased was found near the place where the event of body building was organized. However, apart from the aforesaid evidence there is no other evidence in the form of CDR or evidence to show that the applicant were present at the place of murder. There is no recovery of blood stained clothes from the applicants. There is no criminal antecedents against applicants. It is also not clear as to why the accused had decided to kill the deceased. Cause of quarrel is not depicted in any manner. There is no strong evidence to attribute any motive to kill the deceased. In the circumstances further detention of the applicants is not called for. Case for grant of bail is made out.

6. Hence, I pass following order :

ORDER

- (i) Criminal Bail Application No.3485 of 2019 is allowed and disposed of;
- (ii) The applicants are directed to be released on bail in connection with CR No.147 of 2019 registered with Satara City Police Station, on furnishing PR bond in the sum of Rs.25,000/- each with one or more sureties in the like amount;
- (iii) The applicants shall attend Satara City Police Station once in a month on every first Saturday between 10 am to 12 noon till conclusion of trial;
- (iv) The applicants shall not tamper with evidence;
- (v) The applicants shall attend the Trial Court proceedings regularly, unless exempted for some reason by Trial Court.

(PRAKASH D. NAIK, J.)

MST