

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

BAIL APPLICATION NO.184 OF 2020

Yogesh Balkrishna Bhilare

.. Applicant

Vs.

The State Of Maharashtra

.. Respondent

Mr.Rahul K. Dhaygude, Advocate for Applicant.

Mr. S. R. Agarkar, A.P.P. for the State-Respondent.

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CORAM : PRAKASH D. NAIK, J.

DATE : 5th AUGUST, 2021

PC.

1. This is an application for bail. The applicant is arrested in connection with C.R. No.393 of 2018 registered with Satara Taluka Police Station for the offence under Sections 302, 364 and 201 read with Section 34 of the Indian Penal Code.

2. The case of the prosecution is that deceased Amit Bhosale and the applicant were close friends. The first informant is the brother of the deceased. According to him, in May 2018 the deceased had informed him that the applicant suspects that he is in illicit relation with his wife. The applicant had assaulted him. In June 2018 Amit Bhosale had called complainant and informed him that the applicant told him that they should go

out together to clear suspicion from mind of people about his relationship with applicant's wife. While they were proceeding on motorcycle, applicant had tried to kick him in front of truck. On 01.08.2018 the complainant received a call that Amit Bhosale (deceased) met with an accident. On inquiry, it was learnt that on 31.07.2018 at about 08:30 p.m. the applicant and his wife had visited study center where the deceased was preparing for competitive examination and the deceased had left with them. CCTV footage from the study center was verified and it was found that the applicant and his wife were seen, leaving together with deceased on motorcycle. Although, the applicant was close friend of the deceased, he did not attend his funeral. There were injuries found on the head of the deceased.

3. The applicant was arrested. Statements of witnesses were recorded. On completing investigation, charge-sheet was filed. The applicant had preferred application for bail before the Sessions Court, which has been rejected by order dated 30.01.2020.

4. Learned advocate for the applicant submitted that entire case is based on circumstantial evidence. The circumstances relied upon by the prosecution were not sufficient and strong enough to indicate that the applicant is involved in commission of murder of Amit Bhosale. It is purely case of accident. There is no eye witness to the incident. The statements of witnesses were recorded belatedly. Co-accused Archana Bhilare and Nikhil Bhilare were granted bail. While granting bail to Nikhil Bhilare, this Court had considered the aspect of delay in recording statements of the witnesses. It is submitted that the prosecution has relied upon extra judicial confession made to the witness Dattatraya Jadhav. It is a weak piece of evidence. His statement was belatedly recorded on 15.08.2018. Statements of Bapuji Kadam, Shamrao Bhosale and Krishna Karande were recorded belatedly. Except suspicion, there is no strong circumstance to infer that the applicant is involved in murder of deceased. The case of the applicant and the Nikhil Bhilare is similar. Nikhil Bhilare has been granted bail by this Court. The applicant is entitled for bail on the ground of parity.

5. Learned APP submitted that there are strong circumstances against the applicant. He has been named in the FIR. The applicant had strong motive to commit murder. In the FIR itself the complainant has referred to the past conduct of the applicant. Statements of Bapuji Kadam, Shamrao, Krishna and Dattatraya are relied upon to show the involvement of the applicant in the crime. The case of the co-accused, who has been granted bail, can be distinguished. The applicant has made extra judicial confession to Dattatraya Jadhav. Purely on the ground that the statement was recorded on 15.08.2018, his statement cannot be discarded. There is evidence against the applicant that the victim was seen in the company of the applicant. He has left study center along with applicant. Hence the application for bail may be rejected.

6. The First Information Report is lodged by brother of the deceased. It is alleged that applicant was suspecting that the victim was in relationship with his wife. He was questioned by him and assaulted in the past. The complainant has also referred to the incident of assault by the applicant and attempt

to push him from the motorcycle while they were travelling on the motorcycle. The incident had occurred on 31.07.2018. There is evidence on record which indicates that the victim was preparing for his examination at study center. The applicant and his wife had visited the study centre which is apparent from the statements of witnesses and CCTV footage. The statement of Samadhan Humbe was recorded on 03.08.2018 he has stated that one lady visited study centre and key of the motorcycle was handed over to her on 31.07.2018 at about 08.30 p.m. He has identified the said lady as Archna Bhilare (wife of the applicant). The statement of Sagar was recorded on 03.08.2018. His statement is similar to the aforesaid witness. He had seen deceased in the company one male and female. He has identified the applicant and his wife, who have visited center and met the deceased. Statement of Shamrao Bhosale dated 05.08.2018 indicates that the applicant was not at the funeral of the deceased. Statement of Krishnant Karande dated 05.08.2018 mention that at about 09.00 p.m. he had seen deceased Amit Bhosale with one lady and male. Statement of Dattatraya

Jadhav was recorded on 15.08.2018. He has stated that on 01.08.2018 at about 02.42 a.m. he received call from the applicant and informed that there is snag to his motorcycle near Pavan Dhaba. Witness was requested to pick him up from the said place. The witness approached him. He was brought on his motorcycle alongwith Nikhil Bhilare and dropped near his house. On the next morning the applicant had informed the said witness that he would send Nikhil Bhilare to pick up the motorcycle lying at the place from where he was picked up. Thereafter, the applicant met the witness and told him that on the previous night he has killed Amit Bhosale. While granting bail to Nikhil Bhosale it was observed that the confession was made by the applicant that he has killed Amit Bhosale. It was not his confession that he alongwith Nikhil Bhilare killed him. Hence, the benefit of doubt was given to him. Statement of Bapuji Kadam was recorded on 12.09.2018. He has stated that on 31.07.2018 he saw the applicant, Nikhil Bhilare and deceased at 11.30 p.m. on motorcycle. Thus, the victim was in the company of the applicant right from inception. There are

strong circumstances indicating the involvement of the applicant. Hence, no case for grant of bail is made out.

ORDER

Bail Application No.184 of 2020 stands rejected.

(PRAKASH D. NAIK, J.)