

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

CRIMINAL BAIL APPLICATION NO.919 OF 2021

Prakash Biraji Javir

.... Applicant

versus

State of Maharashtra

.... Respondent

.....

- Mr.Kuldeep S. Patil, Advocate for Applicant.
- Mr.H.J. Dedhia, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 01st MARCH, 2021

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.38/2020 registered with Vitha Police Station, Sagli, under sections 302, 394, 397, 452 of the Indian Penal Code. The Applicant was arrested on 10/02/2020 and since then he is in custody. Investigation is over and the chargesheet is filed.

2. The prosecution case is in respect of the murder of one Shrirang Hambira Dhanavade. The prosecution case is that on

23/01/2020, the Applicant entered his house for committing theft and at that time the deceased saw him. The Applicant thereafter assaulted him and committed his murder.

3. The FIR was lodged by his son Gajanan, who along with others had seen the deceased lying in injured condition.
4. Heard Mr.Kuldeep S. Patil, learned counsel for the Applicant and Mr.H.J. Dedhia, learned APP for the State.
5. Learned counsel for the Applicant submitted that there are no eyewitnesses. Thus, this case is based on circumstantial evidence. Circumstances are weak in nature. The spot panchanama shows that there are no signs of struggle. The deceased had survived for 15 day and therefore there cannot be any intention to commit murder.
6. Learned APP opposed this application and pointed out that the material against the present Applicant is in the nature of

recovery of the weapon, recovery of ornaments and extra-judicial confession.

7. I have considered these submissions. With the assistance of both the learned counsel I have perused charge-sheet. As far as circumstances are concerned, the allegations that the Applicant did not intend to commit murder is not supported by the post-mortem notes. There is a serious injury on the head and though deceased had died after 15 days of the incident, he was not in a position to give his statement. The cause of death is “Cardio-respiratory arrest due to head injury coupled with right temporal bone fracture with subdural Haematoma”. This injury was the cause of death.

8. The next circumstance is about recovery of the knife, his clothes and his footwear at the instance of the present Applicant. This recovery is effected at his instance on 10/02/2020. The weapon as well as clothes showed blood stains as can be seen from the panchanama.

9. The other circumstance is of recovery of ornaments. The Applicant was staying at Khanapur in a room. The ornaments which were stolen were recovered from the house of the deceased. They were found from that room after search. Some of the ornaments were pledged with a jeweller from whom they were recovered. Photographs of ornaments were shown to the daughter-in-law of the victim who had identified those ornaments. That also completes the chain of circumstances against the present Applicant.
10. Besides this, there is statement of the Applicant's wife Vaishali Javir. She has stated that on 23/02/2020 at about 11.45 p.m. the Applicant met her and told her that he had assaulted the deceased while he was committing theft in his house. This circumstance is another incriminating circumstance against the present Applicant. Considering all these circumstances there is sufficient material against the present Applicant. There is no case for bail. The application is rejected.

(SARANG V. KOTWAL, J.)