

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2497 OF 2021**

Rahul Dilip Teware	...	Applicant
Versus		
The State of Maharashtra	...	Respondent

Mr. Shailesh Kharat, for the Applicant.

Mr. H. J. Dedhia, APP, for the State-Respondent.

CORAM : V. G. BISHT, J.

**RESERVED ON : 25th October, 2021.
PRONOUNCED ON : 29th October, 2021.**

PC:-

. The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in Crime No. 143 of 2018 registered with Islampur Police Station, District-Sangali for the offences punishable under Section 302, 201 r/w 34 of the Indian Penal Code.

2 It is the case of prosecution that the informant is the brother of Amit Mohan Virkar (since deceased). The deceased was having a cloth shop. The applicant and co-accused Mahesh Hanmant Teware and deceased were friends. The applicant had purchased clothes worth

Rs.18,000/- and said Mahesh had also purchased clothes worth Rs.8,000/- from the shop of the deceased and the applicant and co-accused had failed to pay the amount.

3 The prosecution next contends that a month before 20/03/2018, the deceased is alleged to have taken away the motorcycle belonging to the father of applicant, however, subsequently it was returned. Probably this was the reason which triggered the incident in question occurred.

4 On 19/03/2018 at about 1-00 p.m. the deceased left his house in order to meet the applicant and the said co-accused, however, he did not return. When the informant was looking for the deceased at about 8-00 a.m. on 20/03/2018 one Sanjay Madhukar Virkar, who is cousin of the informant, informed him a day before at about 6-00 p.m. the deceased was found in the company of applicant as well as co-accused near Panchali Bar. Ultimately during the search of the deceased, the deceased was lying on the terrace of gala which is run by co-accused Mahesh. The deceased was dead having ligature mark on his neck and blood was coming from his head and mouth and glass of beer bottle was lying nearby. The informant realized that it was applicant and co-accused, not only they assaulted the deceased on his head by means of beer bottle,

but also throttled him to death.

5 Mr. Shailesh Kharat, learned Counsel for the applicant, submits that the co-accused, namely, Mahesh is already enlarged on bail by the Hon'ble Apex Court and then took me through the order (Exh.C) filed on record. According to learned Counsel, the applicant is similarly placed and, therefore, he should be given benefit of parity. Moreover, the case of prosecution is based on circumstantial evidence and the only evidence is that of "last scene theory".

6 Mr. Dedhia, learned APP, on the other hand, opposed the submissions by contending that there is sufficient material on record to prove the complicity of the applicant in the offence. There being no merit in the application, the same be rejected, argued learned APP.

7 Perused the investigation papers including Postmortem report. Postmortem report shows that the cause of death was asphyxia due to strangulation.

8 First of all I may refer the order dated 19/04/2021 (Exh. C) passed by the Hon'ble Supreme Court in SLP No. 6756 of 2020. The

Hon'ble Supreme Court taking into consideration the period undergone by co-accused, namely, Mahesh Hanmant Teware granted him bail subject to certain conditions.

9 It may not be out of place to mention here that the applicant-accused is also similarly placed. I have also gone through the statements of various prosecution witnesses recorded during the course of investigation, namely, Sachin Vijay Dhokale, Vikram Shrimant Mohite and Shankar Shahaji Patil . The Statement of Sachin Vijay Dhokale and Vikram Shrimant Mohite show that on 19/03/2018 they had seen the deceased in the company of applicant and the said co-accused around 2-00 p.m. whereas the statement of Shankar Shahaji Patil shows that he had seen the applicant and co-accused in the company of deceased at about 7-15 p.m. along with a beer bottle and food parcel.

10 Apart from above, it further appears that the finger prints of the applicant like the other accused were found on the beer bottle from the spot. Needless to state that the whole case of the prosecution is based on the circumstantial evidence.

11 Having regard to the fact that co-accused, namely, Mahesh Teware

is already released on bail by Hon'ble Apex Court, I do not find any reason to see the case of the applicant from different angle. In view of above, I am inclined to allow the application. Hence, the following order.

ORDER

(i) Applicant- Rahul Dilip Teware shall be released on bail in C.R. No. 143 of 2018 registered with Islampur Police Station, on his executing P .R. bond in the sum of Rs.25,000/- with one or two sureties in like amount.

(ii) The applicant shall not tamper with prosecution evidence and shall attend the trial regularly.

(iii) The applicant shall not leave the jurisdiction of the trial court without prior permission of the trial Court.

(iv) Parties to act on copy of this order duly authenticated by the Sheristedar of this Court.

(v) The application is allowed in the aforesaid terms.

(V. G. BISHT, J.)