

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

CRIMINAL BAIL APPLICATION NO.1174 OF 2020

Akshay Dilip Avghade

.... Applicant

versus

State of Maharashtra

.... Respondent

.....

- Mr.Anil G. Lalla a/w Tushar Londhe i/b. Lalla & Lalla, Advocate for Applicant.
- Mr.S.H. Yadav, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 09th MARCH, 2021

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.555/2019 dated 04/08/2019 registered with Karad City Police Station, District-Satara, under sections 302, 364, 201 r/w 34 of the Indian Penal Code. The Applicant was arrested on 04/08/2019 and since then he is in custody.

2. The prosecution case is that the deceased Udaybhan Ramprasad Pal was engaged in smuggling of endangered species

of snakes. He had some illegal transaction regarding sale and purchase of those snakes with the main accused Pradip Surve. In the transaction Pradip was cheated for Rs.21 lakhs and therefore he held grudge against Udaybhan. According to the prosecution case, all the accused including the present Applicant conspired with each other. Accused No.3 Vinod Popat Shidruk brought Udaybhan to village Jakhinwadi, Taluka Karad and gave his custody to accused No.1 Pradip Surve and accused No.2 Suresh Balu Sonawane. They assaulted Udaybhan with kicks, fists and sticks and committed his murder. The allegations are against the present Applicant that he helped others in disposing of the dead body by throwing it in a valley near village Kumbharli, Taluka Chiplun, District Ratnagiri.

3. The FIR is lodged by API Naikwadi on 04/08/2019, after the dead body was found. He has stated that he received a phone call that a decomposed dead body was found on 25/06/2019. The dead body was cremated on 02/07/2019. On 03/08/2019 officers of Ghatkopar police station, contacted the

informant's police station and brought four accused including Applicant to the informant's police station. The investigation revealed that the accused had committed the murder. On this basis the FIR is lodged.

4. Heard Mr.Anil G. Lalla, learned counsel for the Applicant and Mr.S.H. Yadav, learned APP for the State.
5. Learned counsel for the Applicant submitted that in the entire charge-sheet there is absolutely no material against the present Applicant. Story mentioned in the charge-sheet is based on conjectures and surmises. It is not supported by any concrete material. The Applicant had no motive to commit murder. He is not benefited anyway from the murder. He submitted that even as per the prosecution case, the Applicant had not taken part in assaulting the deceased. At the highest, allegations against him are that he had helped the main accused in disposing of the body and offence would be at the most be u/s 201 of IPC, which is a bailable offence.

6. Learned APP opposed this application. He submitted that the CDR of the Applicant shows that at the time of incident he was in the area where the incident had taken place and therefore this material is sufficient to show his complicity in the offence.
7. I have considered these submissions. With the assistance of both the learned counsel, I have perused the entire charge-sheet.
8. As rightly submitted by learned counsel Mr.Lala there is hardly any evidence against the present Applicant. Even assuming that the CDR of the Applicant shows location of the Applicant near the spot at the time of offence, that by itself does not indicate to the only possibility that the Applicant might have taken part in commission of assault on the deceased. The Applicant had no transaction with the deceased and therefore there was no motive. There is nothing else to show that the

Applicant had conspired together with the main accused Pradip Surve and Suresh Sonawane for committing murder. There is no incriminating material recovered at his instance. The evidence against the Applicant is extremely vague to the extent that it is almost non-existent. It is difficult to observe that only on the basis of CDR, his complicity is established. In this view of the matter, the Applicant deserves to be released on bail.

9. Hence, the following order :

ORDER

- (i) In connection with C.R.No.555/2019 dated 04/08/2019 registered with Karad City Police Station, District Satara, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)