

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

CRIMINAL BAIL APPLICATION NO. 91 OF 2021

Mayur Shripati Kakade ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Vikas Shivarkar for the Applicant

Ms. Anamika Malhotra, A.P.P for the Respondent–State

CORAM : REVATI MOHITE DERE, J.
WEDNESDAY, 22nd SEPTEMBER 2021

P.C. :

1 Heard learned counsel for the parties.

2 By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 106/2018 registered with the Haveli Police Station, Pune, for the alleged offences punishable under Sections 302, 201, 120B r/w 34 of the Indian Penal Code.

3 Perused the papers. Ms. Sushma Aniruddha Gondhale (who was subsequently arraigned as co-accused No. 2), lodged a missing

complaint on 1st May 2018, stating therein, that her husband-Aniruddha Gondhale was missing. According to Sushma, she had a quarrel with Aniruddha on a flimsy ground, pursuant to which, she had gone to her maternal house at Nigade, Taluka Velhe. She has stated that on 1st May 2018, when she returned from her maternal home with her brother-Shailesh Shinde from Khadakwasala, she found that the door of the house was open and that nobody was at home. Accordingly, they inquired with the people with respect to the whereabouts of her husband and ultimately, lodged a missing complaint. She has also stated that she had learnt from one watchman that her husband had left the house on the previous night i.e. on 30th April 2018 at 10:00 p.m. with somebody on a bike and had not returned. According to Sushma, while searching for her husband-Aniruddha, they found his mobile on the road besides Yashwant School, situated to the north of Khadakwasala Village and also a pair of chappal which were bloodstained. The said missing complaint was treated as missing complaint No. 22/2018 at Haveli Police Station, Pune.

4 During the course of investigation of the said missing complaint, the police learnt that Aniruddha (deceased) was drinking liquor with one Pandit Sawant and Vijay @ Bapu Jagtap at about 9:00 p.m. and that at about 10:00 p.m, one Mayur Kakade i.e. the applicant, who was

working at DIAT, had come and taken Aniruddha with him on his bike, after which, Aniruddha was never seen. It also transpired in the inquiry that Aniruddha was addicted to alcohol and that, there were frequent quarrels between Aniruddha and his wife-Sushma, as Aniruddha had learnt about the relations of the applicant with his wife. It is the prosecution case, that on account of the same, Aniruddha would assault and abuse his wife-Sushma. It is also the prosecution case that Sushma would inform the applicant about the same and would tell him to do something about the assault by the deceased on her. Pursuant thereto, the applicant and Sushma conspired to do away with Aniruddha. It further transpired that the applicant told his friends-Datta Kamble and Datta More that Aniruddha had to be eliminated, pursuant to which, the applicant took Aniruddha on his motorcycle to Khadakwasala, where the applicant and the co-accused Datta Kamble and Datta More assaulted him with bamboo sticks and stones and thereafter, all of them threw him in the canal water. The dead body was found in the said canal and was identified by his wife-Sushma. There were injuries of assault on Aniruddha's head. Pursuant thereto, all the accused were arrested.

5 The prosecution case rests on circumstantial evidence. As far as the applicant is concerned, there is evidence of last seen i.e. the applicant

was last seen with the deceased on 30th April 2018, at 10:30 p.m. by four witnesses i.e. Pandit Sawant, Vijay @ Bapu Jagtap, Bhaskar Kadam and Amitkumar Narjinari. All the said four witnesses have specifically stated that the applicant had taken the deceased on his motorcycle at 10:30 p.m, after which, Aniruddha did not return. There is recovery of blood-stained clothes of the applicant as well as other co-accused, at his instance under Section 27 of the Evidence Act. It also appears that on the next day, the applicant reported late to the work by about one and a half hour. The aforesaid circumstances, coupled with motive, *prima facie* point out to the complicity of the applicant in the alleged crime.

6 Considering the aforesaid, this is not a fit case to enlarge the applicant on bail. The application is accordingly rejected.

7 It is made clear that the observations made herein are *prima facie* and are confined to this application and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

REVATI MOHITE DERE, J.