

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

CRIMINAL BAIL APPLICATION NO.358 OF 2021

Rahul Dattatray Korane

.... Applicant

versus

State of Maharashtra

.... Respondent

.....

- Mr.Rahul B. Khot, Advocate for Applicant.
- Ms.Pallavi N. Dabholkar, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 23rd JUNE, 2021

(Through video conferencing)

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.280/2020 registered with Kagal Police Station, Kolhapur, under sections 302, 201, 120-B r/w 34 of the Indian Penal Code. The Applicant was arrested on 19/09/2020 and since then he is in custody. Investigation is over and the charge-sheet is filed.

2. The prosecution case is reflected in the charge-sheet. It is as follows ;

The deceased Geeta Shirgaokar was second wife of the accused No.1 Sagar Shirgaokar. She was causing hurdle in peaceful co-habitation of Sagar with his first wife. Therefore Sagar had got annoyed and he hired the present Applicant to commit murder of Geeta. The prosecution case is that the Applicant in turn engaged the accused No.5 Prashant More to carry out the offence. Prashant in turn hired accused No.2 Akash Pasare and accused No.3 Ganesh Jasud.

3. On 27/07/2020 the accused No.1 Sagar and the present Applicant came to Nipani. They met other accused Nos.2, 3 and 5 and hatched a plan to commit murder of Geeta. The prosecution case is that the Applicant introduced the accused No.1 to other accused. On 28/07/2020, they decided to commit Geeta's murder and to bury her dead body in an agricultural field. The amount was fixed at Rs.25,000/-. The accused No.1 had paid Rs.3,000/-. Accused No.2 Akash told Sagar to bring Geeta at Nipani bus stand in the night. He brought her at that place. At an opportune moment, accused

No.2 gave blow with iron rod on her head and she died on the spot. Accused No.1 gave Rs.22,000/- to others. Her mobile phone was given to accused No.2 Akash. Accused No.2 Akash and accused No.3 Ganesh buried her dead body in an agricultural field. Her golden chain was sold by them. They poured some strong pesticide at the spot and then Sagar lodged false 'missing complaint' in respect of Geeta on 30/07/2020.

4. The FIR was lodged by police constable Arun Govind Kamble attached to Kagal police station. The FIR was lodged on 18/09/2020. The police officers traced and her mobile handset through her phone number and IMEI number. Their investigation revealed the prosecution story. Akash confessed to the police in respect of their plan. On this basis, FIR is lodged.
5. Heard Mr.Rahul B. Khot, learned counsel for the Applicant and Ms.Pallavi N. Dabholkar, learned APP for the State.

6. Learned counsel for the Applicant submitted that there is absolutely no admissible material against the present Applicant. The prosecution story is based on the statement of co-accused involving the Applicant. The statement was given to police. Even as per the co-accused, the Applicant had not taken part in actual assault on Geeta.
7. Learned APP has opposed this application. She submitted that the investigation was based on tracing of Geeta's mobile phone and thus the other accused including the Applicant could be linked to the murder. It was only the present Applicant who had introduced the main accused Sagar to other accused and then the offence was committed. She submitted that there is a criminal antecedent against him, and, while on bail, he has committed this crime.
8. I have considered these submissions. The dead body was found after many days. It was in highly decomposed state and therefore the cause of death could not be given by the

medical officer. The charge-sheet shows that recovery memorandum statements were given by different co-accused, pursuant to which various articles were recovered. Pursuant to the memorandum statement of Akash, an iron rod and a stone were recovered. One Mallappa Laxman Davane had identified accused Ganesh. There are statements of witnesses, who had seen the main accused Sagar carrying Geeta on his motorcyle at that time near the spot. A mobile phone was recovered at the instance of Akash. Thus, all these circumstances are concerning the other accused and in the charge-sheet there is nothing to connect the present Applicant with the present crime.

9. In this view of matter, the Applicant deserves to be released on bail. Though learned APP submits that there is one criminal antecedent against him, and that he has committed this crime while he was on bail; there is nothing to show his connection with the present crime. Therefore the antecedent in this context is immaterial.

10. Hence, the following order :

ORDER

- (i) In connection with C.R.No.280/2020 registered with Kagal Police Station, Kolhapur, 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) The Applicant shall attend the trial Court regularly.
- (iii) The Applicant shall attend the concerned police station once a fortnight for a period of one year from today.
- (iv) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)