

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

CRIMINAL BAIL APPLICATION NO.445 OF 2021

Baban Eknath Mukane

.... Applicant

versus

State of Maharashtra

.... Respondent

.....

- Mr.Sachin B. Chandan, Advocate for Applicant.
- Smt.A.A. Takalkar, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 18th JUNE, 2021

(Through video conferencing)

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.534/2018 registered with Khed Police Station, Pune, under sections 302 r/w 34 of the Indian Penal Code. The Applicant was arrested on 08/11/2018 and since then he is in custody.

2. The FIR was lodged by one Raju Mukane, who was son of the deceased from her earlier marriage. One Leelabai had got

married after death of her first husband, to her second husband Navsu. They were staying together in a hut. The FIR mentions that Leelabai was indulging in magic and other practices and used to give suggestion for any illness and used to treat sick people in the village. On 08/11/2018 villagers found Leelabai and Navasu murdered in their hut. The informant went there. Both of them had injuries on their head. Some liquor bottles and a heavy wooden stick was lying nearby. Leelabai had also suffered some incised wound on her abdomen. At the spot, one wallet was lying. The Applicant's photo and voter's card was in it. On this basis, the FIR is lodged.

3. Heard Mr.Sachin B. Chandan, learned counsel for the Applicant and Smt.A.A. Takalkar, learned APP for the State.
4. Learned counsel for the Applicant submitted that finding of wallet is the only piece of circumstance against the Applicant. But this is not an incriminating piece and does not point to any role of the Applicant. It does not show the only

possibility of involvement of the present Applicant. He submitted that there is a statement of one Laxman Borkar who was brother of the other accused Jaitu Borkar. He had stated that the Applicant and Jaitu were talking with each other and were saying that Leelabai should be murdered. Apart from this statement, there is nothing against the present Applicant. He submitted that even this statement is vague and does not complete the chain.

5. Learned APP relied on finding of wallet at the spot and statement of Laxman to contend that this evidence is sufficient. She submitted that the offence is serious as two persons were murdered.

6. I have considered these submissions. The post-mortem notes of deceased Navasu show that he had suffered five injuries and there was fracture of skull. So obviously because of this, he had died. Other deceased Leelabai had suffered seven injuries including a stab wound. There was fracture of skull.

7. The aforementioned circumstances of finding wallet and statement of Laxman do not complete chain of circumstantial evidence against the present Applicant. When the Applicant was arrested, his clothes were seized and the Panchanama mentions that there were some stain like blood. However, there is no C.A. report eliminating a possibility that it could be his own blood. Thus, though offence is serious, the circumstances against the present Applicant are lacking and they do not form complete chain of circumstances. There is recovery at the instace of co-accused Jaitu of Koyta and knife. However, that circumstance cannot be used against the present Applicant. In any case, it was a recovery, effected from an open place. Finding of the wallet at the spot by itself will not lead to the only inference of guilt of the Applicant. Statement of Laxman does not really establish the motive against the present Applicant. Considering all these aspects, the Applicant has made out a case for his release on bail.

8. Hence, the following order :

ORDER

- (i) In connection with C.R.No.534/2018 registered with Khed Police Station, Pune, 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.)