

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

BAIL APPLICATION NO.330 OF 2020

Pralhad Kalusingh Rajput

.. Applicant

Vs.

State of Maharashtra

.. Respondent

.....

Mr.Ashok Kumar Dubey i/b. SAVJ Law Solutions, Advocate for the Applicant.

Mr.A.R. Kapadnis, APP for the Respondent - State.

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CORAM : PRAKASH D. NAIK, J.

DATED : FEBRUARY 02, 2021.

P.C. :

This is an application for bail in connection with C.R.No.I-467 of 2018, registered with Kalwa Police Station, District-Thane, for offence punishable under Section 302 of Indian Penal Code ("IPC", for short). Applicant was arrested on 12th December, 2018.

2 The case of the prosecution is that on 9th December, 2018, dead body of unknown person was found in a stream. It was noticed that the victim had died on account of asphyxia due to strangulation. FIR was registered on 10th December, 2018

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Aher**

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[This order is corrected pursuant to Speaking to the Minutes order dated 8th February, 2021.)

against unknown person. During the course of investigation, it was revealed that the applicant and accused no.2 who is wife of deceased were having illicit relationship. Hence, the victim was killed by strangulation by rope. Pursuant to the arrest of the applicant, the rope allegedly used in the crime and the chappal were recovered at the instance of applicant. On completing investigation, charge-sheet is filed.

3 Learned advocate for the applicant submitted that the applicant is in custody for more than two years. There is no progress in trial. There is no direct evidence to show the complicity of the applicant in the crime. There is no eye witnesses to the incident. The recovery of weapon/wire is doubtful. There is no other evidence to connect the applicant with the crime. The story of having illicit relationship between accused no.2 and applicant is afterthought. The statements of witnesses were recorded belatedly.

4 Learned APP submitted that there was strong motive for the applicant to commit murder of the deceased. Applicant and the co-accused are in relationship. The applicant and the deceased were residing in the premises where the dead body was

found. There is recovery of wire purportedly used in commission of crime at the instance of the applicant. One constable on patrolling duty on the night of 8th December, 2018, has stated that at about 01:00 a.m., the applicant and the co-accused were found together on the motor-cycle and they gave some excuses about their presence at the spot. Learned APP pointed out several statements of the witnesses, which refers to the relationship between the applicant and the co-accused. He also pointed out the statement of a witness who indicated that the co-accused had left the work place early on the day of incident.

5 I have perused the documents on record. Undisputedly, there is no eye witnesses to the incident. The entire case of the prosecution is based on circumstantial evidence. Statements of witnesses recorded subsequently at the most indicate that the applicant and the co-accused who is wife of the deceased, are in relationship. However, to show that the applicant is involved in murder of the deceased except the recovery of wire, there is no other cogent evidence against the applicant. Statement of Sachin Subhash Fatangare, police constable attached to the same police station which investigated the crime had stated that in the night of 8th December, 2018 and 9th December, 2018, applicant and the co-accused were found

together at about 01:00 a.m. His statement was recorded on 20th December, 2018. The FIR was recorded on 10th December, 2018. It is pertinent to note that the said police constable was attached to the same police station, and, there is no reason for recording his statement on 12th December, 2018. The applicant is in custody for two years. There are no criminal antecedents against him. Considering the factual aspects, bail can be granted to the applicant on certain conditions.

6 Hence, I pass the following order:

:: O R D E R ::

- (i) Bail Application No.330 of 2020, is allowed;
- (ii) The applicant is directed to be released on bail in connection with C.R.No.I-467 of 2018, registered with Kalwa Police Station, District-Thane, on his executing P.R. Bond in the sum of Rs.25,000/-, with one or more sureties in the like amount;
- (iii) Applicant shall report the concerned police station once in a month on first Saturday of the month, between 11:00 a.m. to 01:00 p.m., till further order;

- (iv) Applicant shall provide the details of place of his residence to the investigating officer;
- (v) Applicant shall attend the trial Court on every date of hearing, unless exempted by the Court;
- (vi) Bail Application No.330 of 2020, stands disposed of accordingly.

(PRAKASH D. NAIK, J.)