

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

CRIMINAL BAIL APPLICATION NO.809 OF 2021

Ganesh Jagannath Tikole	 Applicant
Versus	
The State of Maharashtra	 Respondent

Mr. Mohan N. Dhamal, Advocate a/w. Vishal Dhamal, for the Applicant.

Mr. Ajay Patil, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 16th JUNE, 2021
[Through Video Conferencing]

P.C. :

1. The applicant is seeking his release on bail in connection with C.R.No.684/2019 registered at Baramati Taluka police station, District-Pune on 22.8.2019 under Sections 302 and 201 of the Indian Penal Code. The applicant was arrested on 24.8.2019 and since then he is in custody. The investigation is over and the charge-sheet is filed.

2. The prosecution case appears to be that the deceased Vaibhav Londhe was having affair with accused

Mangal Suryawanshi. The present applicant was also having some relations with that lady and, therefore, there was some dispute. The prosecution case is that the deceased was murdered by strangulation. For that purpose, scarf of accused Mangal Suryawanshi was used. The FIR was lodged by the widow of the deceased on 22.8.2019. She has stated that on 21.8.2019 at about 2:30 p.m. the deceased had received two phone calls on his mobile phone. After those phone calls, he left the house by telling the informant that he wanted to attend a pooja ceremony but he did not tell her where he was going. By 7:30 p.m. he did not return. Therefore, the informant's relative Mahendra called the deceased. At that time the deceased told the informant that he would be late and she should have her dinner. The same thing was repeated at about 8:00 p.m.. However, from 8:30 p.m. onwards, the applicant could not be reached on his mobile phone. On the next day at about 2:00 p.m., the informant was told about finding of a dead body. Her family members went there and they found that the dead body of the deceased was lying at

Medad. Apparently the deceased was strangled.

3. Heard Shri Mohan Dhamal, learned Counsel for the Applicant and Shri Ajay Patil, learned APP for the State.

4. Learned Counsel for the applicant submitted that there is absolutely no evidence against the present applicant. The police have recorded statements of various witnesses, but, they merely repeated what the police told them. He submitted that it will be hear-say evidence and there is no evidence against the applicant. He submitted that in the entire charge-sheet there is nothing to show that the applicant had any connection with the alleged affair or with the alleged crime.

5. Learned A.P.P. Shri Patil submitted that the applicant's clothes were recovered from his house which showed that the three buttons were missing. He submitted that one button was found near the dead body.

6. I have considered these submissions. With the assistance of both learned Counsel I have perused the charge-

sheet and I do not find any incriminating material worth mentioning against the present applicant. The post-mortem notes show that the deceased had died due to strangulation. The co-accused Mangal Suryawanshi had allegedly used mobile telephone instruments of two persons, namely, Shivani Tembore and Chayya More. These witnesses were not knowing the accused Mangal Suryawanshi. She had taken their mobile by requesting them as she wanted to make phone calls. Apparently, these were the two phone calls which were received by the deceased as mentioned in the FIR. However, this circumstance is totally unconnected with the present applicant. The witnesses were made to identify Mangal Suryawanshi and not the present applicant.

7. There is statement of one Raj Londhe, who was brother of the deceased. He had seen the deceased with one unknown person and an unknown woman at around 2:30 p.m. near a garden. But Raj Londhe was not made to identify the present applicant. Therefore, even this piece of evidence is not connected with the alleged offence.

8. Finding of a button at the spot is not taken to its next logical step by connecting it with the present applicant. In any case, it is a very weak piece of evidence.

9. Considering all these aspects and very weak prosecution case against the present applicant he deserves to be released on bail. Hence, the following order :

ORDER

- (i) In connection with C.R.No.684/2019 registered with Baramati Taluka police station, District-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) The Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)