

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

CRIMINAL BAIL APPLICATION NO. 497 OF 2019

Babu @ Ranjit Ramesh Dalvi

...Applicant

Versus

The State of Maharashtra

...Respondent

**WITH
CRIMINAL APPLICATION NO. 922 OF 2019
(FOR INTERVENTION)
IN
CRIMINAL BAIL APPLICATION NO. 497 OF 2019**

Mohammad Yasin Mobin Sheikh

...Applicant/Orig. Complainant

IN THE MATTER BETWEEN :

Babu @ Ranjit Ramesh Dalvi

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Satyavrat Joshi i/b Mr. Sumant Deshpande for the Applicant

Mr. S. V. Gavand, A.P.P for the Respondent–State

Ms. Aasavari Khandkar i/b Mr. Shailesh D. Chavan for the
Applicant/Ori.Complainant in APPP/922/2019

CORAM : REVATI MOHITE DERE, J.
(THROUGH VIDEO-CONFERENCING)
WEDNESDAY, 16th JUNE 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. 43 of 2016 registered with the Dehu Road Police Station, Pune, for the alleged offences punishable under Sections 302, 143, 147, 148, 149 of the Indian Penal Code.

3 Learned counsel for the applicant submits that the prosecution case rests entirely on circumstantial evidence and that the only evidence as against the applicant is that of being last seen in the company of the deceased. He submits that although one of the witness who had last seen the applicant with the deceased, has identified the applicant in the Test Identification Parade ('T.I.P'), the possibility of the applicant being shown to the said witness prior to the T.I.P, cannot be ruled out. He further submits that similarly, Khalid Shaikh, who had also last seen the applicant in the company of the deceased, his statement will have to be assessed, as to how far he was from the said place, where he had allegedly seen the applicant with the deceased.

4 Learned A.P.P as well as Ms. Khamkar, learned counsel for the complainant/intervener oppose the application. Learned A.P.P states that bail application of the similarly placed co-accused Akshay @ Prakash Bhausahab Ovhal has been rejected by this Court (Coram : Revati Mohite Dere, J.) vide order dated 10th April 2017.

5 Perused the papers. The incident of assault took place in the intervening night of 6th and 7th March 2016. The prosecution case rests on circumstantial evidence. It is the prosecution case that the applicant along with other co-accused assaulted deceased-Mohsin Shaikh with stones. As far as the applicant is concerned, his role is similar to that of the co-accused- Akshay @ Prakash Bhausahab Ovhal, whose bail application being Criminal Bail Application No. 2132 of 2016 was rejected by this Court (Coram : Revati Mohite Dere, J.) vide order dated 10th April 2017. It appears that the applicant was last seen along with other co-accused in the company of the deceased-Mohsin Shaikh at around 9:00 p.m on 6th March 2016. It appears from the statements of witnesses that the deceased was on a motorcycle of the co-accused and the applicant was also on a motorcycle along with the deceased. The witnesses have stated that they have seen the applicant and the deceased going towards Renuka Mangal Karyalaya on the aforesaid date and time. The dead body of the deceased was found on the next day, at an empty spot behind Renuka Mangal Karyalaya. Apart from the aforesaid evidence of last seen, there is an extra-judicial confession made by one of the co-accused to Gautam Patekar and Shubham Dudhbate. In the said extra-judicial confession, the co-accused has disclosed the applicant's name.

6 Considering the material on record i.e. of last seen and extra-judicial confession, this is not a fit case to enlarge the applicant on bail. The application is accordingly rejected.

7 However, considering the fact, that the applicant is in custody for more than 5 years, the trial of the applicant is expedited. The learned Judge to endeavour to complete the case as expeditiously as possible and preferably within 12 months from the date of receipt of this order.

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

9 In view of the disposal of the bail application, the intervention application being Criminal Application No.922 of 2019 does not survive and the same is also disposed of.

10 All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.