

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

BAIL APPLICATION NO. 1112 OF 2019

Suraj Sahadev Karkare ... Applicant

Versus

The State of Maharashtra ... Respondent

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Ms. Priyanka Thakur, Advocate for the Applicant.

Mr. R. M. Pethe, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 1st OCTOBER, 2021

PER COURT:

1. The applicant is arrested on 31st May, 2018 in connection with C.R. No. I-89 of 2018 registered Mangaon Police Station, Dist. Raigad. Initially First Information Report (for short 'FIR') was registered for offence under Section 363 of Indian Penal Code (for short "IPC") and subsequently Sections 302 & 201 of IPC were added.

2. The FIR was registered on 25th May, 2018. The case of the prosecution case is that the victim girl was missing from the house from 25th May, 2018. The parents of the victim and other persons conducted search but could not be traced the victim hence,

the FIR was registered under Section 363 of IPC. Investigation proceeded. The residents of the area were called by the Police for introduction. The applicant had allegedly confessed before some persons that he has committed the murder. The dead body of victim was found in the residential premises in buried condition. Hands and legs of the victim were tied. There were injuries on the body of the victim. Post mortem was conducted. The applicant was arrested. Memorandum statement under Section 27 of the Evidence Act was recorded. Gold chain purportedly belonging to the victim was recovered at the instance of applicant. The applicant had allegedly shown the place of offence. The chappal of the victim was found in the village at Unegaon Road, mail stone. It is further alleged that the applicant had grudged against Parshuram Kadu, who had complained to the father of the applicant that the applicant is consuming liquor. The applicant was also allegedly suspecting that Parshuram Kadu is having illicit relationship with the wife of the uncle of applicant. Statement of the applicant was recorded under Section 164 of Cr.P.C. wherein he had confessed the crime. On completing the investigation, charge-sheet was filed.

3. Learned counsel for the applicant urged several submissions which can be summarized as under :-

i) The applicant has been falsely implicated in this case. He is college going student. There are no criminal antecedents against him.

ii) The applicant is in custody from 31st May, 2018 and is undergone detention for a period of about 3 years, there is no progress in the trial. At the initial stage there was representation of advocate of bar association that they had taken decision to refrain in appearing from him to appear in the Court. The entire case is based on circumstantial evidence. The circumstances are not so strong to show the complicity of the applicant.

iii) The statement under Section 164 Cr.P.C. was recorded under duress. The applicant was subjected to assault. There are injuries on the person of the applicant. Confession was retracted to him on 2nd July, 2019.

iv) The prosecution is relying upon extra judicial confession which is a weak piece of evidence. The statement of the witnesses relying upon extra judicial confession are doubtful. Such statements cannot be relied upon.

v) The applicant has been falsely implicated in this case. The statement of Parshuram Kadu is under clouds of

suspicion.

vi) There is no recovery of weapon. He had no motive to commit crime. The applicant is permanent resident. There are no chances of absconding. Hence, bail may be granted to the applicant in any terms and conditions.

4. Learned APP submitted that there are strong circumstances showing involvement in the offence. The victim is girl aged about 7 years. She was missing from the residential premises. The statements of witnesses indicate that she had visited the shop on the day of incident and she was returning home. The case of the prosecution is that the applicant had obstructed the victim. She was forcefully taken in the house. She was killed and with a view to implicate Parshuram Kadu. The cell phone belonging to him was taken away by the applicant and the body was thrown in the premises which was not occupied by any person. There is evidence of recovery of gold chain, extra judicial confession made to several witnesses and the statement under Section 164 of Cr.P.C. where he has confessed the crime. This is not the stage to disbelieve the version of applicant in the form of extra judicial confession and statement under Section 164 of Cr.P.C. Hence, the application may be rejected.

5. The charge-sheet reveals that the victim girl aged about 7 years was missing from 25th May, 2018. She could not be traced. Several persons from the village were trying to search her. The case of the prosecution is that the applicant intended to implicate Parshuram Kadu, suspecting that he is in relationship with the wife of his uncle. His plan was to kill the deceased and implicate Parshuram Kadu. Statements of some of the witnesses recorded during the course investigation mentioned that, in their presence the applicant has confessed that he has murdered the victim. After the arrest of the applicant, gold chain was recovered from him. The body was found buried in the house. I have perused the statement of Malti Marne, Rajendra Shirke, Bala Marne, Parshuram Kadu and other witnesses. The applicant had allegedly made extra judicial confession about his involvement in the crime. The applicant contends that he has been falsely implicated. The confession has been extorted. She has been assaulted. However, prima facie there evidence as stated above, the offence is of serious nature. At this stage it is difficult to discard the circumstances collected against the applicant. Hence, no case for grant of bail is made out. Considering the fact that the applicant is in custody for substantial period of time, trial can be expedited.

ORDER

- i) Bail Application No.1112 of 2019 is rejected;
- ii) Trial is expedited.
- iii) The trial Court shall make an endeavour to conclude the trial within nine months from the date of the receipt of this order. It is expected that the prosecution as well as the accused would cooperate in conclusion the trial expeditiously.
- iv) Bail Application No.1112 of 2019 stands disposed of accordingly.

(PRAKASH D. NAIK, J.)