

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

CRIMINAL BAIL APPLICATION NO. 1239 OF 2020

Jalindra @ Jalindar Bhaskar Kasar Applicant

Versus

The State of Maharashtra Respondent

Mr. Pratik Rahade for Applicant.

Mr. Ajay Patil, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 17th FEBRUARY, 2021

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No. 119 of 2020 registered with Wavi police station, Nashik, on 19/04/2020, under section 302 r/w. 34 of the Indian Penal Code (for short 'IPC').

2. Heard Shri. Pratik Rahade, learned counsel for the applicant and Shri. Ajay Patil, learned APP for the State.

3. The First Information Report (for short 'F.I.R.') is lodged by one Bhaskar Kasar. He has stated in his F.I.R. that on

18/04/2020, at about 8.30p.m. he and his two sons Ravindra and Jalindra had dinner. Ravindra had gone to their land for looking after their cattle and the applicant was in the bedroom. He was sleeping. At about 6:00a.m. the informant woke-up the applicant. They started going to their field. But since it was raining heavily they came back. At about 6:30a.m. the applicant went ahead on a motorcycle. The informant followed him on another two wheeler. On the way, he saw that the applicant was coming back and was shouting that somebody had committed murder of Ravindra. The informant went to the spot. Ravindra was kept in a shed. His face was swollen. The others tried to take him to the hospital but he was declared dead. On this basis the F.I.R. was lodged. In the F.I.R. suspicion was expressed against the present applicant. According to the first informant, there used to be dispute between the deceased and the applicant. The applicant was arrested immediately on 19/04/2019 and since then he is in custody. The investigation is over and the charge-sheet is already filed.

4. Learned counsel for the applicant submitted that there is no direct evidence in this case. The case is based only on the

circumstantial evidence and there are no circumstances against the present applicant. There is only recovery of a heavy wooden stick and an iron rod, but it cannot be connected with the present applicant. He submitted that the spot panchanama was carried out on 19/04/2020. The applicant was arrested on the same day but the recovery was shown on 20/04/2020. Significantly, spot panchanama mentions that the weapons of assault were wooden stick and an iron rod. He submitted that, at that point of time, police had no reason to even allege that those were the murder weapons. He, therefore, submitted that, even the circumstance of recovery is extremely doubtful.

5. Learned APP opposed this application. He relied on the statements of other acquaintances who had spoken about the quarrels between the brothers i.e. applicant and deceased. He also relied on the suspicion expressed by the applicant's own father in the F.I.R. itself. He further submitted that, recovery of wooden stick and iron rod at his instance is also an incriminating circumstance.

REASONS

6. With the assistance of both learned counsel, I have

perused the charge-sheet. The deceased had suffered three injuries. All were on the head and the cause of death was mentioned as 'Hemorrhagic shock due to trauma over occipital region of head'. There is no direct evidence in this case. I find force in the submission of learned counsel for the applicant that, in the spot panchanama itself, on 19/04/2020, there is mention of two different weapons i.e. iron rod and wooden stick and the recovery of same weapons is shown at the instance of the present applicant on 20/04/2020. These circumstances are suspicious against the prosecution. Even otherwise, there is no connecting piece of evidence connecting these weapons with the actual murder, in the form of C.A. report. Even otherwise, the memorandum statement of the applicant pursuant to which this recovery was made did not mention whether he had concealed the weapons. Requirements of Section 27 of the Indian Evidence Act are not satisfied. The prosecution case does not travel beyond realm of suspicion. The witnesses speak only about minor quarrel between the brothers that cannot be a reason for commission of murder. The narration in the F.I.R. itself shows that the applicant was sleeping in the

house throughout the night and, therefore, it is extremely doubtful that he could have committed the offence in the night itself. At this stage, sufficient doubt is raised by the applicant against the prosecution case to support his prayer for his release on bail in this case. Therefore, I am inclined to grant bail to the applicant. However, all these observations are restricted to passing of this order. During trial, the trial court shall not be influenced by any of the observations made in this order.

7. Hence, the following order :

ORDER

- (i) In connection with C.R.No. 119 of 2020 registered with Wavi police station, Nashik, 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.)