

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 1422 OF 2020

Surajkumar Subhashchandra Zha ... Applicant

Versus

The State of Maharashtra ... Respondent

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Mr. Kuldeep Patil, for the Applicant.

Mrs. M. R. Tidke, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 11th MARCH, 2021

PC :

. Applicant is seeking bail in connection with C.R.No.0755 of 2019, registered with Tulinj Police Station, Palghar, for offences punishable under Sections 302 and 201 read with Section 34 of Indian Penal Code (“IPC”, for short). The applicant was arrested on 25th June 2019.

2. The prosecution case is that on 21st June, 2019, the police were informed about body of unknown person lying in a bag thrown in a gutter near Sagpada, Nalasopara. The bag was opened and the body was sent to the Government hospital. The body was identified as that of Krushna Sahani. Accused Chanda Gupta, Jyoti Sahani was

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having illicit relationship with accused Mukhtar Ramjan Khan @ Bablu. Jyoti and Krushna Sahani were residing together without marriage since one year. Jyoti called Mukhtar on phone. Mukhtar and Surajkumar (applicant) visited residence of deceased. Mukhtar assaulted the deceased. The accused caught the deceased. Body was covered with plastic bag and disposed of. In the CCTV Footage recovered during investigation, it is seen that accused Mukhtar is seen riding the motorcycle and Surajkumar was a pillion rider holding the bag containing dead body of the deceased. Accused no.3 is seen standing near the motorcycle. The co-accused showed the place where the body of the deceased was dumped and at the instance of the co-accused, hammer and motorcycle used in the crime were recovered.

3. Learned counsel for the applicant submitted that the case is based on circumstantial evidence. The place from where the weapon was recovered was visited by the police and the forensic team on 25th June, 2019. Nothing incriminating was noticed at that point of time. The persons who had seen in the CCTV Footage had not identified applicant and co-accused. It is further submitted that there is discrepancy with regards to the date and time when the CCTV Footage was recorded. Statement of Subramanyam Kalyan Mugres

mentions that he had spoken to the deceased on 19th June, 2019 at 10:00 p.m., which indicate that he was alive.

4. Learned APP submitted that the offence is of serious nature. The accused Mukhtar had illicit relationship with accused Jyoti. There was strong motive to commit the murder. There is recovery of weapon from the accused No.2. Tower location shows his presence in the area. Opinion of Doctor mentions that the incident of murder could have occurred 5 to 6 days prior to the date of finding of body.

5. Undisputedly, the case is based on circumstantial evidence. The prosecution has attributed motive to accused Mukhtar. CCTV Footage refers to two persons on motorcycle carrying bag which was purportedly containing dead body of the deceased. However, there is no identification to show that the applicant and co-accused were the persons who were riding the motorcycle and carrying the bag. The prosecution relies upon the recovery of hammer. It appears that the place was visited by the investigating team prior to the alleged recovery. Accused Mukhtar has been granted bail by this Court by Order dated 5th February 2021. Further detention of applicant is not necessary. In the circumstances, bail can be granted to them.

6. Hence, I pass the following order:

:: ORDER ::

- (i) Bail Application No.1422 of 2020, is allowed;
- (ii) Applicant is directed to be released on bail in connection with C.R.No.0755 of 2019, registered with Tulinj Police Station, Palghar, on executing P.R. Bond in the sum of Rs.25,000/-, with one or more sureties in the like amount;
- (iii) Applicant shall report concerned police station once in three month on first Saturday of the month between 11:00 a.m. to 01:00 p.m.;
- (iv) Bail Application No.1422 of 2020, stands disposed of accordingly.

(PRAKASH D. NAIK, J.)