

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

CRIMINAL BAIL APPLICATION NO.3251 OF 2021

Rahul Dilip Wable	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Sagar Kasar a/w Ms. Chaitali Bhogle for the Applicant

Mr. A. A. Palkar, A.P.P for the Respondent–State

CORAM : REVATI MOHITE DERE, J.
MONDAY, 11th OCTOBER 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. 678/2020 registered with the Niphad Police Station, Nashik, for the alleged offence punishable under Section 302 r/w 34 of the Indian Penal Code.

3 Perused the papers. The present applicant is in the business of travel. The deceased-Krishna Gaikwad was the applicant's close friend

since childhood. Krishna Gaikwad was working as a driver at the applicant's travel agency. On 3rd December 2020, the applicant wanted to go to Nashik in connection with the insurance work of his luxury buses and hence, took Krishna Gaikwad with him. Alongwith the applicant and Krishna Gaikwad, applicant's two friends Sagar Phatangale and Vishal Pawar also accompanied them. All four are stated to have travelled in an Ertiga Car. The applicant was allegedly driving the said car. It appears that somewhere near Shivare Phata, Krishna consumed *gutkha* and when they reached Niphad turn, he felt like vomiting, so the applicant stopped the car on the road, near Kadva River. Krishna is stated to have got down and vomited and the applicant is alleged to have given him water to drink. It is alleged that after sometime, Krishna fell down and the blood was oozing from his ear, nose and left side of the head. Immediately, the applicant, Sagar and Vishal took him to the hospital, where he was declared dead on examination. The applicant approached Niphad Police Station and lodged a report stating the aforesaid. Accordingly, a case of accidental death was registered on 3rd December 2020 at about 21:40 hours.

4 Learned counsel for the applicant submits that subsequently the police during investigation/inquiry, came to the conclusion that the applicant and two other co-accused had murdered Krishna. Learned

counsel for the applicant submits that the said allegations made by the prosecution are not supported by the circumstances on record. It is submitted that the post-mortem of the deceased shows that the deceased died due to cardio-respiratory arrest due to haemorrhagic shock due to polytrauma. Learned counsel for the applicant relied on page 69 i.e. letter of the Medical Officer dated 9th December 2020 sent to the Police Inspector, Niphad Police Station. In the said letter, the Medical Officer has stated that the injuries sustained by Krishna were possible in an accident and not by assault. It is further stated that there is nothing suspicious in the post-mortem report. Learned counsel also relied on the forensic medical expert's report which is on page 141 of the application, wherein, it is stated that the cause of death cannot be ascertained with certainty.

5 Learned A.P.P states that apart from the aforesaid, there is no material to connect the applicant with the alleged offence.

6 The applicant has no antecedents. Investigation is complete and charge-sheet is filed. Considering the nature of evidence, in particular, the medical evidence as stated aforesaid, the applicant has *prima facie* made out a case for grant of bail.

7 Accordingly, the application is allowed and the applicant is enlarged on bail, on the following terms and conditions :

ORDER

(i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 15,000/- with one or two sureties in the like amount;

(ii) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(iii) The applicant to cooperate with the conduct of the trial and attend the trial Court on all dates, unless exempted;

(iv) The applicant shall not tamper with the evidence or attempt to influence or contact the witnesses or any person concerned with the case.

8 The application is allowed in the aforesaid terms and is

accordingly disposed of.

9 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.

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

REVATI MOHITE DERE, J.