

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

BAIL APPLICATION NO. 3310 / 2019

Mr. Ravi Limba Rathod

.....Applicant

V/s.

State of Maharashtra
(PI, Sinhagad Police Station)

....Respondent

* * * *

Mr. Satyam H. Nimbalkar, Advocate for the Applicant.

Mr. R.M. Pethe, APP for State.

CORAM : SANDEEP K. SHINDE, J.

Monday, 8th March, 2021.

P.C. :

1. Heard learned Counsel for the Applicant and learned APP for State.

2. Applicant seeks his enlargement on bail in connection with Crime No. 48/2019 registered with Sinhagad Police Station, Pune for the offence punishable under Section

302 of the Indian Penal Code. Investigation is over and the charge-sheet has been filed. I have perused it.

3. On 8th January, 2019 Constable, Dattatray Thombre was informed that, one person was lying in injured condition near Sujit Complex next to Vadgaon Bridge. The injured was removed to the Hospital where he was declared dead. Cause of death reported was; death due to head injury. On the same day, the applicant was arrested as a suspect. To connect the applicant to the alleged incident/crime, prosecution has relied on the statement of one, Avinash Navnath Shinde. He claims on 8th January, 2019 in early morning at 5:00 a.m. he had seen two persons were quarreling and fighting with each other. After few hours, he came to know that one of them, had died due to head injury. The statement of the witness reveals, he did not know who were those two persons. However, it appears, the police had shown the applicant to whom the witness had identified, being the same person who was quarreling and fighting with the deceased in early morning. Obviously, alleged identification, was at the instance of the police, which has no evidentiary value. The test identification

parade has not been held. Another evidence which prosecution relies on, is the Aadhar Card of the applicant found near the spot of the incident. Besides, prosecution has also relied on recovery of the blood-stained clothes on the disclosure made by the Applicant. But to say there is no report of the Chemical Analyser to further the case of the prosecution. Thus, to be stated that, except the statement of the witness, Avinash Shinde, prima-facie, there is no other evidence to connect the applicant to the subject crime. The investigation in the case is over. The chargesheet has been filed. The applicant is in custody nearly for two years. No criminal antecedents have been pointed out. As a result, the application is allowed on the following terms and conditions :

ORDER

- (i) The applicant arrested in Crime No. 48/2019 registered with Sinhagad Police Station, Pune shall be released on bail on executing P.R. bond for the sum of Rs.25,000/- (Rs. Twenty Five Thousand only) with one or more sureties in the like sum.

(ii) The applicant shall report to the Investigating Officer on the first Monday of each month commencing from April, 2021 between 11:00 to 1: 00 p.m. and co-operate in the investigation.

(iii) The applicant shall furnish his permanent residential address and contact number to the Investigating Officer forthwith within two weeks of his release from jail.

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

6. The application is accordingly allowed and disposed off.

7. It is made clear that, observations made hereinabove, shall be construed as expression of opinion for the purpose of granting bail only and the same shall not, in any way, influence the trial in other proceedings.

(SANDEEP K. SHINDE, J.)