

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

CRIMINAL BAIL APPLICATION NO. 52 OF 2021

Avinash Laxman Hattekar

..Applicant

Vs.

The State of Maharashtra

..Respondent

Mr. Aniket U. Nikam i/b. Mr. Vivek Arote, for the Applicant.
Mr. R. M. Pethe, APP for the Respondent / State.

**CORAM : C.V. BHADANG, J.
DATE : 4 MARCH 2022**

P.C.

. The Applicant who has been chargesheeted for the offence punishable under Section 302 of IPC for having intentionally caused death of Vrushali Suryawanshi, is seeking bail arising out of Crime No.466/2019 of Police Station Sangli City, Sangli.

2. The informant Savita Arjun Suryawanshi, who is mother of the deceased lodged a complaint dated 10 October 2019 about the deceased having gone missing. The dead body of Vrushali was found on 10 October 2019, at about 4.26 p.m. in a tourist lodge, in front of the bus stand at Sangli, in Room No.107. The deceased had

died on account of strangulation. There was a scarf of red colour around her neck. The Post Mortem report shows that she has died because of strangulation and the final opinion was reserved pending report of Chemical Analysis of the visera.

3. During the course of investigation, it was revealed that the Applicant was having a love affair with the deceased and the Applicant alongwith the deceased had checked in the said lodge on 9 October 2019. The CCTV footage recovered from the said lodge shows that on 9 October 2019, the Applicant had left the lodge, at 11.14 p.m. saying that he wanted to fetch water, after which he did not return. Ultimately, there is CCTV footage showing the police personnel having arrived at the lodge at 4.26 p.m. on 10 October 2019 after which the dead body of Vrushali was discovered.

3. I have heard the learned counsel for the Applicant and the learned APP. Perused record.

4. It is submitted by the learned counsel for the Applicant that there are two circumstances relied upon by the prosecution namely (i) the last seen together with the deceased on 9 October 2019 when the Applicant had checked in the said lodge with the deceased and (ii) the extra judicial confession to one Dasharath in a telephonic conversation of which transcript has been produced on record. It is

submitted that the circumstances are not sufficient to conclusively show the involvement of the Applicant in the offence. It is pointed out that the Applicant has been arrested on 11 October 2019 and is in custody since then. The investigation in this crime is complete and the chargesheet is filed.

5. Learned APP has referred to the CCTV footage, and also the transcript of the conversation between the Applicant and Dasharath who is stated to be a friend of the Applicant. Learned APP has also referred to the statement of one Nitin Aivale who claimed that there is yet another extra judicial confession made to the said witness.

6. I have considered the circumstances and the submissions made.

7. The case is based on circumstantial evidence as there is no eye witness account of the manner in which Vrushali was done to death. As noticed earlier, there are two circumstances relied on by the prosecution namely, of last seen together and secondly about the extra judicial confession.

8. The learned counsel for the Applicant submitted that there is no CCTV footage from the lodge produced by the prosecution after 11.14 p.m., on 9 October 2019 to 4.26 p.m. on 10 October 2019. It

is pointed out that the deceased was found in a lodge and the possibility of any other person having visited the lodge during this period of which CCTV footage is not made available, cannot be ruled out. It further appears that in so far as the extra judicial confession is concerned, the Applicant has allegedly made a telephonic conversation with Mr. Dasharath. A perusal of the transcript does not show that the Applicant has taken name of the deceased. Furthermore, it is also not shown at this stage as to how the recording of said conversation was automatically made. That apart, the learned counsel for the Applicant has pointed out that the voice sample of the Applicant was obtained and was sent alongwith the conversation, as recorded. The learned counsel for the Applicant submitted that the chargesheet does not contain any report of FSL. There is no recovery of any incriminating article from the Applicant except the mobile which is purportedly containing the conversation. The investigation in this crime is complete and the chargesheet is filed.

9. In the result, the following order is passed.

ORDER

- (i) The Criminal Bail Application is allowed.
- (ii) The Applicant Avinash Laxman Hattekar, be released on bail in Crime No.466/2019 of Police Station Sangli City, Sangli, on executing a P.R. Bond in

the sum of Rs.25,000/- with one or two solvent sureties in the like amount.

(iii) The Applicant shall undertake to remain present before the learned Sessions Judge during the course of trial, unless exempted.

(iv) The Applicant shall not directly or indirectly make any attempt to tamper with the prosecution evidence or witnesses.

(v) Bail bonds to be furnished before the learned Sessions Judge.

C.V. BHADANG, J.