

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

BAIL APPLICATION NO.426 OF 2021

Hrishikesh Maruti Pol

...Applicant

Versus

The State of Maharashtra

...Respondent

...

Ms Shubhangi Parulekar for the Applicant.

Mr. A.A. Palkar, APP for Respondent -State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED :29th NOVEMBER, 2022.

P. C. :-

1. This is an application under Section 439 of Cr.Pc. filed by the Applicant, who is facing trial in Sessions Case No.640 of 2019 pending on the file of learned Additional sessions Judge, Pune, for the offences punishable under Sections 201, 302, 363 and 364 r/w Section 34 of the Indian Penal Code.

2. Heard Ms Shubhangi Parulekar, learned counsel for the Applicant and Mr. A.A. Palkar, learned APP for the Respondent -State. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. Father of the deceased had lodged report dated 14/09/2019 stating that his son Nikhil had left the house on 13/09/2019 and did not return home till late night. He apprehended that his son, who was about 16 years of age was abducted by some unknown person. Pursuant to the said report Crime No.3 of 2019 came to be registered at Warji Malwadi Police Station for offence under Section 363 of the IPC.

4. In the course of the investigation co-accused was arrested. Body of the deceased was recovered pursuant to the disclosure statement made by the co-accused. The body was sent for post mortem report. The post mortem report reveals that there were about 12 injuries on the body of the deceased. The co-accused in his disclosure statement recorded under Section 27 of the Indian Evidence Act named the present Applicant. On the basis of the said statement, present Applicant came to be arrested. The only material against the Applicant is the extra judicial confession made to the witness-Prashant. Statement of said Prashant was recorded on 25/01/2019. He has stated that about two months ago there were some arguments between him and the Applicant, due to which they were not in talking terms. He has stated that on 16/01/2019 the Applicant called him and

expressed his desire to meet him. He has stated that they met at KTM show room and the Applicant told him that he and his friend had murdered one boy. It prima facie appears to be doubtful that the Applicant, who was not in talking terms with the witness would call him only to confess about the murder.

5. The other incriminating piece of evidence is the extra judicial confession of the co-accused made to witness Vaishnavi. The extra-judicial confession of the co-accused can at the most be relied upon as corroborative evidence and not substantive evidence.

6. Nothing has been recovered from the Applicant. There is no material on record to indicate that the Applicant had any reason or motive to eliminate the deceased. Even otherwise, apart from the alleged extra judicial confession of the Applicant and of the co-accused there is no other material to link the Applicant with the crime.

7. Considering the above facts and circumstances, in my considered view the Applicant is entitled for bail. Hence the application is allowed on the following terms and conditions:-

- (i) The Applicant, who is facing trial in Sessions Case No.640 of 2019 pending on the file of learned

Additional sessions Judge, Pune, is ordered to be released on bail on furnishing PR bonds in the sum of Rs.35,000/- with one or two sureties in the like amount;

(ii) The Applicant shall report to the concerned investigating officer on first Monday of every month between 10.00 a.m. to 2.00 p.m. till framing of charge.

(iii) The Applicant shall keep the Investigating Officer informed of his current address and mobile contact number and /or change of residence or mobile details, if any, from time to time;

(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;

8. The application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)