

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.1765 OF 2021

Ramukumar Rajendra Singh .. Applicant

Versus

The State of Maharashtra .. Respondent

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Ms.Misbaah Solkar for the Applicant.

Ms.A.A.Takalkar, A.P.P. for the State/Respondent.

PI Sunil Pungle, attached to Bhoiwada Police Station,
Bhiwandi, present.

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CORAM: BHARATI DANGRE, J.

DATED : 06th OCTOBER, 2022

P.C:-

1. The applicant came to be arrested on 22/03/2019 in connection with C.R.No.105 of 2019, on being accused of causing death of one Krishna Chinkam Gautam on 20/03/2019 at 21.00 hrs.

2. Heard learned counsel Ms.Misbaah Solkar for the applicant and learned A.P.P. Ms.Takalkar for the State.

With their assistance, I have perused the charge-sheet which is placed on record.

3. The complainant is a watchman of the Tharma For Mill and when he arrived to attend his duty at 9.00 a.m., Operator

Hansraj Pande questioned him as to why he did not lock the shutter of the company before leaving the earlier night. The complainant alongwith said Hansraj visited Gala No.43 to check on, one employee, Krishna, who was sleeping inside Gala No.43 to find out whether he had left the shutter open, the night before. They noticed that Krishna was dead and blood was oozing from his head and it was apparent that he was assaulted and sustained injuries. This incident resulted in registration of C.R. with Bhoiwada Police Station.

4. On completion of investigation, the police have filed the charge-sheet and the death of Krishna is attributed to the present applicant with a motive that the mother-in-law of the deceased was carrying an affair with him and on this ground, quarrel used to take place between the two and that is why, he revenged the quarrel by hitting the deceased by means of piece of iron (blade of grinder machine) and in order to destroy the evidence, hide the weapon, burned the clothes and the handkerchief, which he had tied across his face.

5. The case of the prosecution is entirely based on circumstantial evidence and it can be seen that there is no eye witness to the incident and the arrest of the applicant is merely on suspicion. It is not the case of the prosecution that the deceased was last seen alive in the company of the applicant and the motive, which has been attributed is only assumptive and there is no material to that effect, included in the charge-sheet.

6. Though prosecution specifically rely upon the CCTV footage, it has merely recorded the applicant sitting and having Gutka all alone, without the presence of the deceased being recorded nearby. Though the learned A.P.P. has produced on record the copy of the C.A. report, the same does not take the case of the prosecution any further, as the partially burnt cloth piece in form of H(I) and H(II) are referred to physics division and since they were burnt pieces of cloths, though Exh.H(II) is reported to be stained with blood, there is no evidence to show that it is the blood group of the deceased, as hair obtained from the deceased, which was sent for analysis for ascertaining the blood group, has rendered inconclusive result, though it is found to be human blood. Though certain articles recovered from the spot are stained with blood group 'A', prosecution has not conclusively established that blood group of deceased was of group 'A' and though Exh.H(II) reports blood group 'A', since it is not compared with blood group of deceased, it cannot be said with certainty that it would establish the guilt of the applicant. The extra judicial confession, which is compiled in the charge-sheet, is a weak piece of evidence and cannot be, *prima facie*, sufficient to sustain the conviction in absence of any independent corroboration. The recovery of articles by itself is not a conclusive factor to establish his guilt.

The applicant, being incarcerated since 22/03/2019 on the basis of the circumstantial evidence, deserve his release on bail, though he may take the consequence when he face the trial, which charged him with the offence of murder. The applicant, therefore, deserve his release on bail.

7. Needless to state that the observations made above are, *prima facie*, in nature and limited to the extent of adjudication of the present application and the learned Judge trying the applicant for the offences with which he is charged, shall not get influenced by the above observations, in any manner.

: **ORDER** :

- (a) Application is allowed.
- (b) Applicant – Ramukumar Rajendra Singh shall be released on bail in connection with C.R.No.I-105 of 2019 registered with Bhoiwada Police Station, on furnishing P.R. Bond to the extent of Rs.25,000/- with one or two sureties in the like amount.
- (c) The applicant shall mark his attendance before the concerned police station on first Monday of every trimester between 10.00 a.m. and 2.00 p.m. till framing of charge and, thereafter, shall abide by the directions issued by the trial Court.
- (d) The applicant shall attend the trial on regular basis.
- (e) The applicant shall not leave Thane city till conclusion of trial.
- (f) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.

(g) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(SMT. BHARATI DANGRE, J.)