

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

CRIMINAL BAIL APPLICATION NO. 1023 OF 2020

Siddesh Shankar Patil

.... Applicant

Versus

The State of Maharashtra

.... Respondent

Mr. Ganesh Gupta a/w. Syed. Shabana M. Ali for Applicant.

Mr. Umeshchandra Yadav, Spl. P. P. a/w. Smt. A. A. Takalkar, APP
for State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 10th JANUARY, 2022

(through Video Conferencing)

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No. 571 of 2018 registered at Pant Nagar police station, 03/12/2018. Initially, the offence was registered under section 363 of IPC. Subsequently, sections 302, 364, 365, 396, 201 and 120B r/w. 34 of the I.P.C. were added. Similarly sections 3 and 181 of the Motor Vehicle Act were also added.

2. Heard Shri. Ganesh Gupta, learned counsel for the applicant and Shri. Umeshchandra Yadav, learned Special P. P. for

the State.

3. The prosecution case is that the informant Ronak Udani's father Rajeshwar was abducted on 28/11/2018 at 9.00p.m. in an i10 car. He was taken to a secluded spot. There are allegations that, he was lured to sit in that car by using a girl who was already sitting in that car. After the deceased sat in that car the deceased was taken to a secluded place and his murder was committed by strangulation.

4. Learned counsel for the applicant submitted that the case is based only on the circumstantial evidence. There are weak pieces of circumstances. Based on such pieces of evidence, there is no likelihood of conviction of the applicant. The only circumstance against him is 'last seen theory' but the dead body was found after 72 hours. Therefore, this particular aspect is not an incriminating circumstance. He submitted that, there is another circumstance of recovery of hand gloves and mask at the instance of the present applicant. However, that recovery is extremely doubtful, as the logbook of the police vehicle which was taken to effect such recovery, shows that vehicle had not gone to that place at all.

There are whatsapp chats between different accused and those chat messages in fact help the case of the applicant. According to Shri. Gupta, Sohil Golandaj should be made an accused and should not be treated as a witness because he has taken important part in the entire incident.

5. Learned Special P.P. strongly opposed this application. He relied on all those circumstances referred to herein above and in particular relied on the statement of the main witness Sohil Golandaj which was recorded on 12/12/2018.

6. I have considered these submissions. The First Information Report (for short 'F.I.R.') is lodged by Ronak Udani who was son of Rajeshwar Udani. He has stated that, on 28/11/2018, the driver of the deceased had left him near Mulund corner. The driver further informed that the deceased sat in a white car and went towards Vashi side. The deceased did not return and, therefore, the first informant lodged this F.I.R. There are other supplementary statements of the first informant. They mention further details. He has also stated that the deceased was carrying more than Rs.40000/- when he was abducted.

7. On 07/12/2018 he received the informant that a highly decomposed body was found within the jurisdiction of Panvel Taluka police station. The first informant identified that dead body as that of his father.

8. As submitted by the special P. P. the most important circumstance is the statement of witness Sohil. He has given details of the incidents which transpired on that particular date i.e. 28/11/2018. This witness was preparing for securing a job in police department. He was knowing accused Dinesh Pawar. This witness was supplying protein powder on commission to Dinesh Pawar.

9. On 28/11/2018, at about 11.30p.m. Dinesh Pawar called him. He asked this witness to bring a parcel from Kandivali. This witness had gone to Kandivali railway station. One girl approached him and gave him some box which contained injections. In the evening Dinesh Pawar again called this witness and told him to bring his two friends to his another friend Ajay's house. This witness accordingly went to Amar Mahal, Chembur and picked up those two friends and went to that room in an auto

rickshaw. At that time, he came to know the names of those two friends i.e. Mahesh Bhoir and Praneet Bhoir. After some time, Dinesh Pawar came to that room. In the evening, at about 8.30p.m. this witness again was told to bring another friend from Vikroli bridge. All of them went to Vikhroli. At that time, the applicant met them. He was carrying a sack. He inquired with this witness as to whether he was sent by Dinesh Pawar. This witness was satisfied that the applicant was the person who was to accompany him as per say of Dilip Pawar. All of them then reached Vikhroli, near a banquet hall. This witness, Dilip Pawar and Sachin Pawar sat in a white coloured i10 car. Sohil saw Mahesh Bhoir and one unknown girl around 18 to 20 years of age in that car. After some time, Sachin Pawar got down from the car and tampered with the number plate of that car. At about 8.30p.m. Sohil's another friend Linos came there on a motorcycle. Both of them decided to go to Badlapur as per their earlier plans. Dinesh requested Sohil to bring a cake before going to Badlapur and gave him money. Sohil accordingly brought a cake and gave it to Dinesh. At that time, the applicant and others were present near

that i10 car. Dinesh told Linos that since the driver of i10 car was not knowing the way, they should show him the road towards Ghansoli. Accordingly, Sohil and Linos showed the way to the driver. After some time, i10 car was taken near a red coloured car. A middle aged man about 50 to 55 years of age got down from that car and sat in i10 car. Thereafter, Linos and Sohil went ahead followed by i10 car. At about 10.00p.m. that i10 car was stopped. This witness Sohil saw that Dinesh Pawar, Mahesh Bhoir and the applicant came running near i10 car. All of them forcibly entered the car and the car was taken ahead in high speed.

10. Subsequently this witness was shown photographs and he identified one of the photographs of the deceased as the person who was sitting in i10 car before it was taken away by the present applicant and other accused. This witness has given detailed account of entire plan hatched by Dilip Pawar and others including the present applicant. Thus, the applicant has played a major role. Because, as per version of this witness all the accused named herein above entered that i10 car forcibly and then the car was taken at high speed at different place. The deceased never

returned and obviously he was murdered after that. This last seen theory is an important circumstance. Time of death and proximity with abduction can be decided during trial.

11. The postmortem notes show that the deceased had died due to strangulation. The cause of death was “Evidence of nasal bone fracture with fracture of hyoid bone suggesting of death due to asphyxia by smothering with manual strangulation (unnatural).” Thus, there is direct connection between abduction of the deceased and the applicant was seen sitting forcibly in the car in which the deceased was travelling.

12. Apart from that, there is another important circumstance of recovery of gloves and masks at the instance of the present applicant. The submission that logbook entry of police vehicle does not support the prosecution case, cannot be decided at this stage. It is a matter of trial and for that purpose both the sides will require to lead evidence and to cross-examine other side’s witnesses.

13. Witness Ketan Sangoi has given a statement that the applicant had purchased three pairs of hand gloves and three

masks on 28/11/2018 i.e. on the day of abduction. He had explained how he had remembered the name of applicant. This purchase of incriminating articles is also proximate to the day of incident. Considering all these aspects, there are strong enough circumstances against the present applicant. It is not the case where there is no evidence against the applicant. The offence is serious. No case for grant of bail is made out.

14. The application is rejected.

(SARANG V. KOTWAL, J.)