

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

CRIMINAL BAIL APPLICATION NO. 1982 OF 2022

Avinash Vishnu Salave	...Applicant
Versus	
State Of Maharashtra	...Respondent

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Mr. Aniket Nikam a/w Mr. Vivek Arote i/by Mr. Amit R. Icham,
Advocate for the Applicant.

Ms. P N. Dabholkar, APP for the Respondent – State.

Mr. M.H. Nalawade (PSI) Sahakar Nagar Police Station, Pune, Present.

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CORAM	:	PRAKASH D. NAIK, J.
DATE	:	7th OCTOBER, 2022.

PER COURT:

1. The applicant was arrested on 22.05.2021 in connection with C.R. No.129 of 2021 for the offence punishable under Section 302 of Indian Penal Code. The First Information Report (herein after referred to as "FIR") was registered on 22.05.2021 by one Ramesh Narayan Shelar. It is alleged that he had rented out the premises to the deceased and one Amruta Manjarekar. On 21.05.2021 he saw Kalpana Ghosh in an injured condition in the room. He also noticed that there were injuries on her person. The incident was reported to police. Statements of witnesses were recorded. Amruta Manjarekar, in her statement dated 23.05.2021 has stated

that the deceased was live-in-relationship with Amit Mhaske. There were frequent quarrels between them. The case is based on circumstantial evidence.

2. The applicant is working in Chaitanya Bar and Restaurant, Dhankawadi, Pune as cook. Prosecution is relying on statements of witnesses, who stated that there was altercation between the applicant and the deceased on account of non-payment of money towards purchasing liquor. The CCTV footage shows that the applicant was moving out of the hotel with knife in his hand. There is recovery of blood stained clothes, cell phone of the deceased and knife at the instance of the applicant.

3. Learned Advocate for the applicant submitted that, in the absence of direct evidence, the applicant cannot be held responsible for the crime. The circumstantial evidence relied upon by the prosecution is weak and cannot be considered for several reasons. The statement of Amruta Manjrekar refers to quarrels between the deceased and the person with whom she was live-in-relationship. The applicant had no enmity with the deceased. The statement of the owner of the hotel was recorded. He has stated that, in the CCTV installed in the hotel, there is no reference to the presence of the applicant. The applicant is allegedly seen moving out of the hotel with knife. The applicant is a cook working in the

hotel and merely on account of the said circumstances, it cannot be inferred that the applicant is involved in committing murder. The cell phone belonging to the deceased was found at some other place and not at the residence of the deceased or in the hotel. The statements of the witnesses working in the hotel at the most indicate that there was an altercation about non-payment of money for liquor which cannot be motive for committing murder. The applicant being a cook can also sustain injury to his finger while working. These circumstances are not so strong to infer that the applicant is involved in commission of murder. The applicant is in custody from the date of arrest. There are no criminal antecedents against the applicant.

4. Learned APP submitted that there is strong circumstantial evidence against the applicant. The recovery of knife, cell phone, clothes and injury found on his finger, CCTV footage are sufficient to show his involvement in the crime.

5. The investigation is completed and charge-sheet is filed. There is room for an argument that the circumstances relied upon by the prosecution may not be sufficient to prove the charge against the applicant. The statement of the room partner of deceased indicate that she was residing along with a person with

whom she was live-in-relationship and there were frequent quarrels between them. There is no strong motive for the applicant to commit murder. The knife was found in the hotel, where the applicant is working. There is no evidence to show that applicant was at the place of incident, where victim was found lying injured. There are no criminal antecedents against the applicant. Considering the aforesaid circumstances, bail cannot be denied to the applicant.

ORDER

- i. Bail Application No. 1982 of 2022 is allowed;
- ii. The applicant is directed to be released on bail in connection with C.R. No.129 of 2021, registered with Sahakar Nagar Police Station, Pune, on executing PR. bond in the sum of Rs. 25,000/- with one or more sureties in the like amount;
- iii. The applicant is permitted to furnish cash bail in the sum of Rs. 25,000/- for a period of eight weeks in lieu of surety;
- iv. The applicant shall report concerned Police Station once in a month on first Saturday of the months between 11.00 to 1.00 p.m. till further order.
- v. The applicant shall not tamper with the evidence;
- vi. Bail Application is disposed off accordingly.

(PRAKASH D. NAIK, J.)