

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

CRIMINAL BAIL APPLICATION NO. 2370 OF 2022

Mohanlal Ganaram Choudhari	Applicant
Versus	
The State of Maharashtra	Respondent

....

Mr. Sandeep B. Satkar, Advocate for the Applicant.

Mr. N. B. Patil, APP for the Respondent – State.

Mr. Prithviraj Ghorpade, PI, NRI Police Station, Navi Mumbai.

....

CORAM : PRAKASH D. NAIK, J.

DATE : 21st OCTOBER, 2022

PC :

1. Learned advocate for applicant seeks leave to correct name of applicant. Leave to correct name of applicant in title of application is granted. The applicant's name is allowed to be corrected as 'Mohanlal Ganaram Choudhari'. Similar corrections be carried out in uploaded operative part of order dated 21.10.2022.

2. The applicant is seeking bail in connection with C.R. No. 211 of 2021 registered with NRI Sagari Police Station for offences punishable under Sections 302 and 201 of the Indian Penal Code.

Digitally signed
by
DNYANESHWAR
ASHOK ETHAPE
Date:
2022.11.15
10:57:30 +0530

3. The First Information Report was registered on 04.09.2021 alleging that the first informant, who is working as police naik received information while patrolling that one dead body is lying at Ulwe. The first informant and others went to the spot and found decomposed body of male person. It was removed from the spot. The deceased was around 70 to 80 years old. The FIR was registered against unknown person.

4. During the course of investigation, the applicant was arrested. On completing investigation charge-sheet was filed. The applicant had preferred application for bail before the Sessions Court which has been rejected by order dated 27.06.2022.

5. Learned advocate for the applicant submitted that the applicant is in custody from 06.09.2021. There is no evidence against the applicant. There is no eye witness to the incident. There are no criminal antecedents against the applicant. The applicant was arrested on suspicion. There is no evidence to show that the applicant has committed the crime. The applicant has been falsely implicated in this case. CCTV footages are not clear. On the basis of such

evidence, the applicant cannot be kept in custody. The right hand of the applicant was broken in the accident and surgery was performed in the past. There is steel rod inside his right hand. He requires treatment. Applicant is relying on medical case papers. The case is based on circumstantial evidence. The circumstances are not strong to show involvement of the applicant.

6. Learned APP submitted that there are strong circumstances against the applicant. The applicant was acquainted with the deceased. The applicant used to purchase kerosene from the deceased. The applicant and the deceased were at the godown on the date of incident. The deceased came back to the shop of applicant. The deceased asked the applicant to send his wife at godown. The applicant got annoyed. The deceased was strangled by applicant/accused with the help of nylon rope. The postmortem report reveals that death of the deceased was by strangulation. The accused disposed of the dead body by throwing it in a water pond. Investigating Officer has collected footage of CCTV which disclosed the involvement of the applicant. Rope was seized from the spot. The spot of incident is a shop of the applicant. The CCTV footage

shows that the dead body was taken away by the accused from the place of incident. The act was brutal. The deceased was the senior citizen.

7. The case of the prosecution is that the deceased and the applicant were acquainted with each other. The applicant/accused used to purchase kerosene from the deceased. On 29.08.2021 the deceased visited shop of accused at plot No.35, sector 19, Ulwe. Thereafter, they went to godown and returned back to the shop. The accused was allegedly enraged on the version of the deceased that he should send his wife to the godown. Deceased was killed in the shop by strangulation. Body was kept in the shop. The accused left the house on 31.08.2021 at about 03.15 am and he allegedly went to the shop. He removed clothes of the deceased and kept the body in the sack. Body was tied to the rear side of the motorcycle. The prosecution is relying upon the CCTV footages.

8. I have perused the CCTV footage and seizure panchnama. The CCTV footage shows that on 29.08.2021 the accused and the deceased were traveling on motorcycle and reached plot No.35, sector 19, Ulwe. The CCTV footage

further shows that the deceased is in the company of the accused near his shop. Thereafter, he is not seen out of shop. The CCTV footage also show that on 31.08.2021, the accused was seen leaving his house at 03.12 am. According to the prosecution CCTV footage also show that accused had entered into shop on 31.08.2021 and seen with the body covered with bed sheet and sack and proceeding further on motorcycle. Although case is based on circumstantial evidence, there are strong circumstances showing involvement of the applicant. No case is made out for grant of bail on merits as well as on medical ground. Hence, i pass the following order.

ORDER

Criminal Bail Application No. 2370 of 2022 is rejected and disposed off.

(PRAKASH D. NAIK, J.)