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

BAIL APPLICATION NO.26/2021

MUKESH SOMAROORAM BHAGAT ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

Mr. Ashok Chopra a/w. Ms. Vinita Jain for the applicant.
Ms. P. N. Dabholkar, APP for State.

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 1, 2022.

P.C. :

1. Heard learned counsel for the applicant and learned APP for the State.
2. This is an application for pre-arrest bail in connection with First Information Report (FIR) No.575/2018 registered with Juhu Police Station for the offence punishable under Sections 302, 201 read with 34 of the Indian Penal Code.
3. It is the case of the prosecution that Ramkumar and the applicant killed Shivkumar. Deceased Shivkumar was the real brother of accused no.1-Ramkumar. It is alleged that Shivkumar's wife was having love affair with the accused no.1-Ramkumar as a result there were disputes

between the deceased Shivkumar and Ramkumar. On November 21, 2018, Shivkumar was found dead. It is alleged that Ramkumar and the applicant (original accused no.2) killed Shivkumar. The material against the applicant - Mukesh is in the nature of the statements of the witnesses which are at page 69, 79 and 92. The witnesses have stated that Ramkumar and the applicant were seen together near the house of Shivkumar. The witnesses have stated that they had seen Shivkumar and the applicant going upstairs and had purchased a bottle of liquor. It is alleged that the deceased Shivkumar was given sleeping pills and thereafter, Ramkumar strangled him. On the basis of the statement of the accused Ramkumar, the present applicant (original accused no.2) is implicated. According to Ramkumar, while he was strangulating the deceased Shivkumar, the present applicant had caught hold of his feet. Apart from that there is some material in the form of CCTV footage that Shivkumar and the applicant had purchased a bottle of liquor. On the basis of these materials against the applicant, it would not be prudent to continue the applicant's custody.

The applicant is in custody since November 21, 2018, almost for a period more than four years. The charge-sheet has been filed long back. The trial is not likely to be commenced any time soon.

4. Considering the nature of allegations and the fact that the applicant is in custody for more than four years, the applicant can be released on bail. Hence the following order.

ORDER

(a) Application is allowed.

(b) Applicant-Mukesh Somarooram Bhagat shall be released on bail in connection with First Information Report (FIR) No.575/2018 registered with Juhu Police Station, on his furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.

(c) 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.

(d) The applicant shall report to the Investigating Officer on the first Monday of every month.

(e) 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.

(f) The application is disposed of.

(M. S. KARNIK, J.)