

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

CRIMINAL BAIL APPLICATION NO.3186 OF 2021

Sagar @ Prashant Navnath Dabhade	...Applicant
Vs.	
The State of Maharashtra	... Respondent

**WITH
INTERIM APPLICATION NO.2717 OF 2021
IN
CRIMINAL BAIL APPLICATION NO.3186 OF 2021**

NILAM
SANTOSH
KAMBLE

Digitally signed
by NILAM
SANTOSH
KAMBLE
Date: 2022.03.21
18:22:58 +0530

Urmila Uttam Gaikwad	...Applicant
----------------------	--------------

IN THE MATTER BETWEEN

Sagar @ Prashant Navnath Dabhade	...Applicant
Vs.	
The State of Maharashtra	... Respondent

Mr.Rupesh A. Zade for the Applicant.
Mr.A.R. Kapadnis, APP for the Respondent-State.
Mr.R.M. Pawar for the Intervenor.

CORAM : C.V. BHADANG, J.

DATE : 21 MARCH 2022

P.C.

. By this Application, the Applicant is seeking bail in
Crime No.127 of 2021 registered with Daund Police Station,
District-Pune, under Section 302, 201 of the Indian Penal Code.

2. The deceased Prashant @ Harshad Nimbalkar went missing on 1 March 2021. The brother of the deceased lodged a complaint on 8 March 2021 informing the Police that the deceased had gone missing.

3. In the meantime on 5 March 2021 a dead body of an unidentified person was found floating in the Bhima River bed. The limbs of the dead body were tied with a sticking tape. Urmila Gaikwad who is the Gaon Kamgar Police Patil of Khanwate, Taluka-Daund, District-Pune informed about the same to the concerned Police Station on 5 March 2021, on the basis of which the aforesaid offence was registered against unidentified persons. During the course of the investigation it was revealed that the deceased was in the company of the co-accused Manoj @ Maruti Nimbalkar.

4. Swapnil Nimbalkar brother of the deceased tried to contact the deceased as well as Manoj Nimbalkar, however, could not get a reply. He thereafter contacted Ajit Nimbalkar cousin brother of Manoj Nimbalkar and it was ultimately revealed that the Applicants and the deceased had consumed liquor together after which there was a quarrel amongst them with the deceased which according to the prosecution has led the Applicant and the co-accused to cause the death of Prashant Nimbalkar and

subsequently having disposed of the dead body in the river bed, in order to destroy evidence.

5. I have heard the learned counsel for the parties. Perused record.

6. The postmortem report shows that the dead body was in a decomposed state and the opinion about the cause of death was reserved pending, the report of the chemical analysis of the viscera. Initially the brother of the deceased, identified the clothes of his brother Prashant Nimbalkar

7. The case is based on circumstantial evidence. With the assistance of the learned counsel for the parties I have gone through charge-sheet and the statements recorded.

8. The learned Additional Public Prosecutor points out that there is a CCTV footage of which transcript is produced in the form of a panchnamma. Although the learned Additional Public Prosecutor submitted that the Applicant is seen in the said CCTV footage along with deceased and co-accused traveling on a two wheeler, it was fairly submitted that there is no material to show that the CCTV footage was shown to any of the witnesses or any relatives of the deceased who identified the present Applicant to be in the company of the deceased.

9. The learned Additional Public Prosecutor has referred to the statement of Premraj Uttam Dhamdhare. Even perusal of that statement does not show the involvement of the present Applicant. *Prima facie* it can be seen that in the last paragraph of the statement, the witness states that he 'learnt from the Police' that the Applicant and the co-accused had assaulted the deceased, resulting into his death.

10. There is no recovery of any incriminating articles from the Applicant, except that according to the Additional Public Prosecutor the Applicant had shown the spot of the incident in a panchnamma under Section 27 of the Evidence Act. There is a serious doubt whether the showing of the spot of the incident which is a public place can be said to be a 'fact discovered' within the meaning of Section 27 of the Evidence Act. Apart from this the prosecution claims that there is a recovery of tape which was found on the dead body.

11. Considering the overall circumstances, and the nature of the evidence collected and further having regard to the fact that the prosecution has not produced any record about any Test Identification Parade conducted in the matter, I find that the Applicant can be released on bail. The Applicant was arrested on 12 April 2021 and is in custody since then. The investigation is complete and the charge-sheet is filed.

12. In the result, the following order is passed.

ORDER

- (i) The applicant-Sagar @ Prashant Navnath Dabhade be released on bail, on executing a P.R. Bond in the sum of Rs.25,000/- with one or two solvent sureties, in the like amount.
- (ii) The applicant shall undertake to remain present before the learned Sessions Judge during the trial, unless exempted.
- (iii) The applicant shall not tamper with the prosecution evidence/witnesses.
- (iv) In the event of breach of any of the conditions, the bail is liable to be cancelled.
- (v) The bail bonds to be furnished before the learned Special Judge.
- (vi) The Criminal Application is disposed of in the aforesaid terms.
- (vii) The Interim Application is also disposed of.

C.V. BHADANG, J.