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

BAIL APPLICATION NO. 3667 OF 2021

Mr. Umesh Kambale ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr.Meghdeep M. Oak for the Applicant.

Mr. H.J. Dedhia, APP for the Respondent -State.

.....

CORAM : V.G.BISHT, J.

RESERVED ON : 15TH DECEMBER, 2021

PRONOUNCED ON : 20TH JANUARY, 2022

PC:-

1. The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in Crime No. 286 of 2021 registered with Satara City Police Station, Satara for the offence punishable under Sections 302, 201 read with 34 of the Indian Penal Code (the IPC).

2. Informant is father of deceased, namely, Akash. On 10th April, 2021, informant lodged the First Information Report (FIR) to the effect that in between 11.45 p.m. of 5th April,

2021 to 9.45 a.m. of 6th April, 2021, some unknown persons for some unknown reasons assaulted deceased on his head by means of a concrete stone and committed his murder and in order to cause the evidence disappear, burnt deceased with the help of tyre and woods. During the course of investigation, it revealed that on 5th April, 2021 at about 10.30 p.m., deceased had a quarrel with the accused Tejas Aawale and Chetan Aawale. Later on, deceased was taken by the said accused on a motorcycle to consume liquor. Again, a quarrel took place there between deceased and accused Vikrant Kamble and Sangram Ranpise on the ground that deceased used to trouble the sister of accused Vikrant Kamble. It further revealed that accused Vikrant Kamble and Sangram Ranpise then gave a blow of a concrete stone on the head of deceased. At that time, accused Tejas Aawale, Umesh Kambale (applicant) and Chetan Aawale were also present but in order to destroy the evidence of murder of deceased, they tried to burn the dead body with the help of tyre and woods.

3. Mr. Oak, learned Counsel for the applicant, submits that initial FIR was lodged against unknown persons. The only allegation against the applicant is that he along with others tried to cause the evidence pertaining to death of deceased disappear by burning the dead body of deceased with the help of tyre and woods. Learned counsel then submits that co-accused, namely, Chetan Nandkumar Aawale has already been released by this Court (**Coram: Revati Mohite Dere, J.**) on 21st September, 2021 and since the applicant is also similarly placed, he deserves to be given the benefit of parity.

4. Mr. Dedhia, learned APP, on the other hand, submits that the only evidence available against the applicant is in the form of CDR and nothing else.

5. Perused investigation papers.

6. From the submission of learned APP, it is seen that the only evidence collected against the applicant is CDR. This Court had an occasion to discuss that aspect while releasing co-accused, namely, Chetan Nandkumar Aawale on bail. This

Court was of the opinion that merely because applicant's i.e. Chetan Nandkumar Aawale tower location was in the village in itself would not be sufficient to show the complicity of the applicant inasmuch as the applicant himself is a resident of the same village. This Court further observed that similarly a phone call made by the said applicant to accused No. 4, namely, Umesh Kambale i.e. present applicant at 11.45 p.m. *prima facie* also cannot be said to be incriminating.

7. Moreover, the prosecution's allegation that the applicant tried to dispose of the dead body of deceased is not borne out by any material on record. In my view, the observations of this Court squarely apply to the case of the present applicant as well. There are no criminal antecedents. Moreover, investigation is completed and charge-sheet has been filed.

8. In view of the material on record, the applicant deserves to be enlarged on bail on following terms and conditions :

ORDER

(i) Applicant- Umesh Kambale shall be released on bail in C.R. No. 286 of 2021 registered with Satara

City Police Station, Satara on his executing P.R. Bond in the sum of Rs. 20,000/- with one or two surety/ sureties in like amount.

(ii) The applicant shall attend the concerned Police Station on the first Saturday of every month between 10:00 a.m. to 11:00 a.m. till the conclusion of the trial.

(iii) The applicant to cooperate with the conduct of the trial and attend the trial Court on all dates, unless exempted.

(iv) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

(v) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

(vi) Bail before the trial Court.

(vii) It is made clear that the observations made herein are *prima facie* and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

(viii) The application is allowed in the aforesaid terms and stands disposed of accordingly.

(V.G.BISHT, J.)