

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

CRIMINAL BAIL APPLICATION NO. 3700 OF 2021

Yogesh Nabilal @ Bilasha Kale

..Applicant

V/s.

The State of Maharashtra

..Respondent

Mr. Rupesh A. Zade, for the Applicant.

Mr. S. R. Agarkar, APP for the Respondent/State.

PSI Ajit Bapuso Patil, Jaysingpur Police Station, Kolhapur.

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P.C.

. By this Application, the Applicant (Accused No.5) is seeking release on bail. The Applicant alongwith co-accused has been chargesheeted for the offence punishable under Section 302, 457, 459, 460, 397 and 380 of IPC, arising out of Crime No.200/2017 of Police Station Jaysingpur, District Kolhapur.

2. The aforesaid crime is registered on the basis of complaint dated 14 August 2017 lodged by Pritam Baburao Nikam, who is son of the deceased. According to the informant, on 14 August 2017, he noticed that there was an incident of dacoity in his house in the night intervening between 13 August 2017 and 14 August 2017, in which his parents were assaulted. The mother

was found dead lying in a pool of blood, while the father was found to be seriously injured and there was theft of the golden ornaments and cash as set out in the complaint to the tune of Rs.7,22,500/-.

3. On the basis of the complaint, the offence came to be registered. During the course of investigation, the Accused Nos.1 to 4 were arrested on 18 September 2017. The present Applicant (Accused No.5) has been arrested on 1 July 2019. The record discloses that the Applicant was arrested only on the basis of the confessional statement by the Accused Nos.1 to 4 under Section 27 of the Evidence Act in a different crime i.e. Crime No.335/2017 of Police Station Shahupuri, District Kolhapur. These statements are produced at page Nos.185, 192, 198 and 204 of the compilation.

4. The learned counsel for the Applicant submitted that the investigation is complete and the chargesheet is filed.

5. Learned APP did not dispute that the only material against the Applicant is the Memorandum Panchanama and the discovery made by the Accused Nos.1 to 4 in Crime No.335/2017. It further appears that the Applicant was arrested on a transfer warrant from Crime No.133/2015 of Police Station Vita, District Sangli. Learned APP pointed out that there are

criminal antecedents against the Applicant. However, in my considered view, that cannot come in the way of the Applicant as in the present case, the only material against the Applicant is the confessional statements by the co-accused in a different crime.

6. In such circumstances, the following order is passed.

ORDER

- (i) The Criminal Bail Application is allowed.
- (ii) The Applicant Yogesh Nabilal @ Bilasha Kale, be released on bail in Crime No.200/2017 of Police Station Jaysingpur, District Kolhapur, on executing a P.R. Bond in the sum of Rs.25,000/- with one or two solvent sureties, in the like amount.
- (iii) The Applicant shall undertake to remain present before the learned Sessions Judge during the course of trial, unless exempted.
- (iv) The Applicant shall not indulge into similar offence, while on bail.
- (v) The Applicant shall not directly or indirectly make any attempt to tamper with the prosecution evidence or witnesses.
- (vi) Bail bonds to be furnished before the learned Sessions Judge.

(C.V. BHADANG, J.)