

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO.2692 OF 2021
IN
CRIMINAL APPEAL NO.115 OF 2021

Jayesh Raghunath Mhadlekar ... Applicant / Appellant
Vs.
State of Maharashtra ... Respondent

Mr. Sharad A. Ghadge a/w. Mr. Deepak C. Jaiswal i/b. Mr. Prashant C. Mohite
for Applicant / Appellant.
Ms. G. P. Mulekar, APP for Respondent-State.

**CORAM : S. S. SHINDE &
SARANG V. KOTWAL, JJ.**
DATE : MARCH 22, 2022

P.C. :

. This is an application for bail filed by the applicant for releasing him on bail during pendency of his appeal before this Court. The applicant had earlier approached this Court for the same relief *vide* Criminal Bail Application No.74 of 2021 in Criminal Appeal No.115 of 2021. This Court (*Coram: Prasanna B. Varale & S. M. Modak, JJ.*) by order dated 22.02.2021 had allowed the applicant to withdraw the application with liberty to file a fresh application only on the ground of change in circumstance. The present application is filed for the same relief but no change in circumstance is brought to our notice by the learned counsel for the applicant except that the appeal is not decided since that date. Considering the pendency of appeals of previous years before this Court and that the present appeal is of the year 2021, the same cannot be given preference. Therefore, we have considered the merits of the case for deciding this interim / bail application.

2. The incident in question had taken place on 26.01.2017 in the house of the applicant. The prosecution case is that the applicant had assaulted his wife and committed her murder. The learned trial Judge has enumerated the circumstances against the applicant in paragraph 19 of the impugned judgement. They are broadly mentioned as under:-

- i. Motive - the applicant was suspecting his wife's character;
- ii. Prior to the incident, on two occasions, the applicant had physically assaulted the deceased wife;
- iii. The deceased was residing separately from the appellant since about one month prior to the incident. On two occasions, the applicant tried to take her back to his house. However, the deceased and her parents had refused;
- iv. On the date of incident at about 10:00 a.m., the applicant took the deceased from her parents' house to his own house on the pretext of dropping her to the Platinum Hospital where she was working;
- v. Soon after the incident, the applicant had absconded; and
- vi. Clothes of the accused showed blood stains, which was not explained by the applicant.

3. As far as the applicant taking the deceased to his house is concerned, there are witnesses. P.W.1 - Madhuri Dhavan, mother of the deceased, has deposed about the applicant's history and she has specifically deposed that on 26.01.2017 at about 10:00 a.m., the applicant had come to their house and taken the deceased with him. The deceased had reluctantly accompanied him. P.W. 9 - Shankar Salukhe, watchman of the nearby

society where parents of the deceased reside, deposed that he had seen the deceased and the applicant going on a motorcycle by P. K. Road. P.W.4 - Vithal Thite, who was at the tea stall, deposed that he had seen the applicant going with the deceased towards the applicant's residence, which was quite near the said tea stall. P.W.6 - Rohini Dhabade has deposed that she is residing on the upper floor opposite to the applicant's residence in Ambika Chawl. On 26.01.2017, at about 10:30 a.m., she had seen the deceased going upstairs to the applicant's residence. She also saw the bike used by the applicant near her residence. All these witnesses have sufficiently established that the applicant had taken the deceased to the matrimonial house on the date of the incident. The deceased was found dead in applicant's house. The applicant had taken a plea of alibi, which was not accepted by the learned trial Judge by giving cogent reasons. Subsequent conduct of the applicant of absconding from the scene of offence also does not support his case. Thus, considering all these circumstances together, there is sufficient strong material to reject the application for bail. No case is made out for granting bail. Criminal Application No.2692 of 2021 stands rejected.

4. Criminal Appeal No.115 of 2021 to be added to the weekly final hearing board, chronologically.

(SARANG V. KOTWAL, J.)

(S. S. SHINDE, J.)

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