

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

BAIL APPLICATION NO. 4296 OF 2021

Vijaykumar Narayan Rathod	 Applicant
v/s.	
The State of Maharashtra (Through Poud Police Stn. Pune Gramin)	 Respondent

Mr. Priyal G.Sarda for the Applicant.
Ms. V. Shinde, APP for the State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 22nd NOVEMBER, 2022.

P. C. :-

1. This is an Application under Section 439 of Cr.P.C. filed by the aforesaid Applicant who is facing trial in Sessions Case No.470/2021 pending on the file of learned Additional Sessions Judge, Pune for offences punishable under Sections 302, 201 r/w. Section 34 of the Indian Penal Code.

2. Heard Mr.Priyal Sarda, learned counsel for the Applicant and Ms.V. Shinde, learned APP for the State. I have perused the records and considered the submissions advanced by learned counsel for the respective parties.

3. Pursuant to the FIR lodged by Prasad Anil Kulkarni in C.R.No.525/2020 was registered against the applicant and other co-accused with Poud Police Station, Pune. It is the case of the prosecution that the complainant Prasad Anil Kulkarni had engaged the co-accused Umesh and his wife as caretakers at his farmhouse, at Kule, Taluka Mulshi, Dist.Pune. The Complainant has stated that on 06/11/2020, he had seen the deceased in the house of the co-accused Umesh. The co-accused had informed him that the deceased is his brother and had come to stay with him for 8 to 10 days. On 21/11/2020, when the Complainant had gone for a walk he got some foul smell. He suspected that something was wrong and on 22/11/2020, he once again inquired with co-accused Umesh, his wife Amrita and children about the deceased. The co-accused Umesh told him that the deceased would abuse co-accused Amruta as he suspected that she was having illicit relationship with the applicant herein. On 13/11/2020, the co-accused Amruta called the applicant and complained that the deceased was abusing her. The deceased started abusing the applicant and in a fit of anger, he assaulted the deceased Santosh. The co-accused Amrita stated that they should

eliminate deceased Santosh. The co-accused Umesh told to complainant that he had assaulted the deceased by means of koyta and that the applicant herein strangled him with a rope and thereafter, they buried the body in the farm. On the basis of said information given by the co-accused, the complainant lodged the First Information Report.

4. The material on record indicates that the body of the deceased was exhumed from the farm of the complainant in presence of the panchas and was sent for Postmortem. The postmortem report also indicates that there were chop injuries as well as laceration on the right Parietal region and that the death was due to head injuries. The postmortem report also indicates that 50cc of thin reddish fluid was present in the right pleural cavity. The statement of the son of co-accused also prima facie reveals that the applicant was having illicit relationship with his mother. He has stated that the deceased did not approve the said relationship and that there used to be constant quarrels between his mother and the deceased. This witness has further stated that on 13/11/2020, there was an altercation between his mother and the deceased and that his mother had called the applicant.

His mother told them to go to the farmhouse and close the door. He has stated that after he returned, he found that his parents were tense. When he questioned his father about the deceased, he stated that his uncle gone to Akkalkot and that he was not aware about his whereabouts.

5. The statement of Amitabh Pasalkar, prima facie reveals that on 13/11/2020 the applicant had hired his JCB to excavate a pit in the farm of the complainant to plant a tree and paid him Rs.3000/- for the said work. The statements of Kiran Dagade and Bhanudas Mandekar also prima facie indicate that the applicant had told him that a dog was buried in the farm of the complainant and since it was emitting foul smell, the carcass of dog was required to be exhumed and buried on the bank of the river. He has stated that while he was digging the pit the police arrived at the spot and hence they had to stop the work.

6. The aforesaid material prima facie proves involvement of the applicant in commission of the crime, which is of serious nature. Considering the aforesaid facts in my considered view this is not a fit case for grant of bail. Hence, the application is

dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)