

Uday S. Jagtap

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

CRIMINAL BAIL APPLICATION NO. 3821 OF 2022

Amol Dilip Kharaje

.. Applicant

Vs.

The State of Maharashtra

.. Respondent

.....
Mr. Kedar J. Patil a/w Mr. Pratik G. Tare, Mr. Jitesh N. Mudhwa,
Gargi Joshi for the applicant
Mr. N.B. Patil, APP for the respondent State
.....

CORAM : PRITHVIRAJ K. CHAVAN, J.

DATED : 5th JUNE, 2023

P.C.

1. By this application, the applicant prays for his release on bail, who has been charge-sheeted for the offences punishable under Sections 302, 201 r/w 34 of the Indian Penal Code, registered at Juna Rajwada Police Station, Kolhapur vide C.R. No.265 of 2020.
2. There are five accused. The prime accused no.1 – Kishor Ayre, accused - Karan Kangale, accused - Samadhan Kamble and accused - Somnath Chatale have already been enlarged on bail.

3. Briefly stated, it is the case of the prosecution that accused Kishor Ayre had a suspicion that deceased Laxman Daware had an ill eye on his wife and because of the same there used to be quarrel between him and the accused no.1. On 4th June, 2020, dead body of deceased Laxman Daware was found in a rivulet. During autopsy, it was noticed that the death was due to strangulation. Admittedly, there is no eye-witness. The entire prosecution case appears to be revolving around the circumstantial evidence.

4. Heard learned Counsel for the applicant and the learned APP for the respondent State.

5. At the outset, learned Counsel for the applicant has invited my attention to the statement of one Mr. Vijay Waghmare, the only person who had named the applicant as the one to whom he noticed driving a motorbike near the house of accused no.1. From the statement, it appears that he noticed accused Karan Kangale taking the deceased in his autorickshaw somewhere else. There was one more person in the autorickshaw, however, this witness could not identify him. This is the only material *qua* the applicant, which in no way, *prima facie*, indicates any incriminating evidence against

him.

6. Though, there is a discovery statement under Section 27 of the Indian Evidence Act *qua* the applicant that a nylon rope was recovered at his instance, that would not be an admissible evidence, atleast, at the time of considering the application for bail.

7. Since rest of the accused have already been enlarged on bail and it is submitted by the learned APP that the charges are yet to be framed, there will be no point in detaining the applicant behind the bar till the trial is concluded. Even otherwise, he will have to be enlarged on the ground of parity.

8. Having considered the aforesaid circumstances, the applicant needs to be enlarged on bail. Hence, the following order :-

ORDER

(i) Applicant - Amol Dilip Kharje shall be released on bail in C.R. No. 265 of 2020 registered with the Juna Rajwada Police Station, Kolhapur, on his executing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount to the satisfaction of the concerned Sessions Judge.

(ii) The applicant shall not tamper with prosecution evidence.

(iii) The applicant shall attend the Court proceedings regularly.

(iv) The applicant shall not leave the jurisdiction of the trial Court without seeking its prior permission.

(v) Parties to act on copy of this order duly authenticated by the Sheristedar of this Court.

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

(vii) The application is allowed in the aforesaid terms and stands disposed off accordingly.

(PRITHVIRAJ K. CHAVAN, J.)