



Diksha Rane

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

BAIL APPLICATION NO.771/2023

MANOJ RAMSAWAR KANAUIYA

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Adv. R. R. Paramane for the applicant.

Mr. A. A. Palkar, APP for the State.

API Sagar Takale, Koparkhairane Police Station, Mumbai.

CORAM : M. S. KARNIK, J.

DATE : SEPTEMBER 27, 2023.

P.C. :

1. Heard learned counsel for the applicant and learned APP for the State.

2. This is an application for bail in respect of the offence punishable under Section 302 read with 34 of the Indian Penal Code (hereafter 'IPC' for short) registered on 27/12/2019 vide C.R. No.I-47/2020 with Koparkhairane Police Station, Navi Mumbai.

3. The case rests on circumstantial evidence. The applicant was arrested on 31/12/2019. The First Information Report is lodged on 27/12/2019. The prosecution alleges

that the applicant was present at the time when the deceased Tipu Rafiq Shaikh was murdered.

4. Learned APP opposed the application for bail. Learned APP relied upon the recovery of blood stained clothes at the instance of the applicant.

5. The prosecution case is that the co-accused Sunita @ Geeta Rakesh Gupta was in relationship with the deceased. The deceased used to abuse her. The sixteen years old son of the deceased in his statement says that his mother accused Sunita @ Geeta had asked him to get a knife and rope at a room which belonged to the co-accused Sajan. On 26/12/2019, the co-accused Sunita @ Geeta was present along with other four accused persons in the said room. There is a statement of juice seller who saw the co-accused Sunit @ Geeta along with four others in the room which belonged to Sajan. *Prima facie* the materials only reveals that the present applicant was in the company of the co-accused Sunita @ Geeta and others in the room which belongs to Sajan. There is recovery of blood stained clothes at the instance of the applicant.

6. There are no criminal antecedents reported against

the applicant. The case is entirely based on the circumstantial evidence. The knife which was used in the commission of the crime was not recovered from the present applicant but from the co-accused. The applicant is in custody for more than one year and nine months with no possibility of the trial concluding any time soon. The investigation is complete. The charge-sheet has been filed. The applicant does not appear to be a flight risk. The applicant can be released on bail by imposing stringent conditions. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Manoj Ramsawar Kanaujiya in connection with C.R. No.I-47/2020 with Koparkhairane Police Station, Navi Mumbai, shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.
- (c) The applicant shall attend the Investigating Officer of Koparkhairane police station once in a month every first Monday of the month between 11.00 a.m. and 1.00 p.m.

(d) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.

(e) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(f) The applicant shall attend the trial regularly.

(g) The applicant shall surrender his passport, if any, to the investigating officer.

(h) The applicant shall not leave the State of Maharashtra without permission of the trial Court till the trial is over.

7. The application is disposed of.

(M. S. KARNIK, J.)