

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

BAIL APPLICATION NO. 1596 OF 2021

Kiran Govind Harad

..Applicant

VS.

State of Maharashtra

..Respondent

Adv Nitin Sejpal a/w Adv Pooja Sejpal a/w Adv Akshata Desai
a/w Adv Sakshi Jha a/w Adv S. Gharat for the Applicant.

Mr. S. H. Yadav, APP for the State.

PSI - Y.B. Kadam, Murbad Police Station.

CORAM : M. S. KARNIK, J.

DATE : FEBRUARY 8, 2023

P.C. :

- 1.** Heard learned counsel for the applicant and learned APP for the State.
- 2.** This is an application for bail by the applicant- Kiran Govind Harad, in connection with C.R. No.I-138 of 2017 dated 11/11/2017, registered with Murbad Police Station, under sections 302, 396, 120(B), 201 of the Indian Penal Code, 1860.
- 3.** The applicant is the original accused no. 4. There are in all 5 accused who have committed an alleged offence

punishable under sections mentioned above. The incident is alleged to have taken place on 08/11/2017. It is alleged that 5 accused have murdered the driver of the Jeep. The case rests completely on circumstantial evidence. At the instance of the applicant, his clothes have been recovered which are stained with blood. Final chemical analyzer report is awaited. Even as regards CCTV footage, though 3 people are seen along with the driver, it is not certain whether the applicant is one of them. Of course, these are matters to be considered at the time of the trial.

4. It is pertinent to mention that the accused no. 5 who is alleged to have used the knife for committing the murder of the deceased has been released on bail by this Court. The order dated 02/03/2021 passed by this Court in **Laxman @ Sonya @ Aditya Tukaram Ghude Vs. The State of Maharashtra**¹ reads thus:

“Heard.

1. It is an application under Section 439 in Crime No. I -138/2017 registered with Murbad Police Station for the offences punishable under Sections 302, 396, 120-B and 201 of the Indian Penal Code, 1860.

2. Dead body of the Madhukar was found in partly decomposed state, whereafter Autopsy Surgeon opined he died due to cut throat injury with

1 Bail Application No. 3028 of 2019

strangulation. It appears Madhukar was missing since 8th November, 2017 and his body was found on 11th November, 2017, whereafter his brother lodged the F.I.R.

3. Co-accused in the subject crime were arrested on 19th November, 2017 and applicant on 1st December, 2017.

4. Learned Counsel for the applicant submits the investigation is over and the final report has been fled; however, there is no evidence to connect the applicant to the subject crime. Counsel would submit that there are no criminal antecedents, against the applicant and since investigation is over, applicant's presence for the trial can be secured by imposing suitable condition, inasmuch as the trial is not likely to commence within reasonable time.

5. Mr. Agarkar, learned APP for State has relied on a statement of one Niyaz Ali recorded on 13th November, 2017 to contend that on 8th November, 2017, deceased was seen in the company of five unknown persons. Be that as it may, in absence of Test Identification Parade, the statement of Niyaz Ali, does not further prosecution case. The learned APP has also relied on a disclosure panchanama dated 4th December, 2017. Barring these two circumstance, there is no material brought to my notice to show/suggest the applicant's complicity in the subject crime. The applicant is in the custody since 1st February, 2017. Prosecution case rests on circumstantial evidence. As stated above, except two circumstances, prosecution could not point out any other circumstance, to connect the applicant to the subject crime.

6. In consideration of the facts of the case and the material on record, a case is made out for releasing the applicant on bail."

5. Furthermore, the applicant is now in custody for more than 5 years and 2 months. The possibility of the trial commencing and concluding any time soon appears to be

remote. There are no criminal antecedents reported against the applicant. On the ground of parity, the applicant can be released on bail. Hence, the following order.

ORDER

(a) Applicant- Kiran Govind Harad, in connection with C.R. No.I-138 of 2017, registered with Murbad Police Station, shall be released on bail, on his furnishing P.R. Bond of Rs.30,000/- with one or more sureties in the like amount;

(b) The applicant shall report to the Investigating Officer twice a month i.e. on first and third Monday of each month commencing from March-2023 between 11.00 a.m. and 04.00 p.m till the charge is framed;

(c) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(d) On being released on bail, the applicant shall furnish his contact number and residential address along with the permanent address to the Investigating Officer within a week and shall keep him updated, in case there is any change.

6. The application is disposed of.

(M. S. KARNIK, J.)