

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 1729 OF 2022

Akash Namdev Pawar @ Jambaj Upkarya Pawar ... Applicant

V/s.

State of Maharashtra

... Respondent

.....
Mr. Kedar J. Patil i/b. Sudatta Patil, Advocate for Applicant.
Ms. Anamika Malhotra, APP for Respondent-State.
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CORAM : SHIVKUMAR DIGE, J.

DATE : 11th SEPTEMBER 2023

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1. By this Application, Applicant is seeking bail in C.R.No. 200 of 2017 registered with Jaysingpur Police Station, Kolhapur for the offence punishable under Sections 302, 380, 397, 457, 459, 460 of Indian Penal Code, 1860 (for short "IPC").
2. It is the prosecution's case that on 14.08.2017 in the morning at around 6.30 a.m. When the complainant got up and started to walk out from his bedroom he saw that door of his bedroom was locked from outside. So, complainant called his family member from his mobile but got no response. So, he called his cousin Balwant Nikam on his mobile phone, at that time his nephew Ramraje

Kadam came and unlocked his bedroom door, when he came downstairs, he saw that his mother Aruna Nikam was seriously injured and blood was spilled everywhere. The complainant screamed and then went towards his father's bedroom, he saw that the door of his father's bedroom was opened and his father was lying on his bedroom in critical condition and there was blood spilled everywhere. The complainant immediately went to his brother's bedroom at that time complainant saw that his brother's bedroom door was locked. From outside complainant opened the door and called his brother outside. With the help of neighbours complainant took his father to hospital. After admitting his father in hospital, when complainant came back to his home, Police Officers and staff were present in house. When complainant checked his house, he saw that two iron trunks in his father's bedroom were open and the things which were kept in those iron trunks were lying on the floor. He also saw that drawer was open and when he went near to his mother's dead body he saw that his mother's face was stabbed with some weapon and the gold jewellery which she was always wearing was not there. Complainant lodged complaint against unknown burglar. In investigation in connection of this crime, the Police arrested Applicant and co-accused.

3. It is the contention of learned Counsel for Applicant that Applicant has been falsely implicated in this case. Two gold ornaments of deceased are seized at the instance of Applicant but there is dispute that whether those gold ornaments were of deceased or not. Except this seizure of gold ornaments, there is no material evidence against the Applicant. Applicant is behind the bar more than six years. Investigation is completed and charge-sheet has been filed. Hence, requested to allow the Application.

4. It is the contention of learned APP that, Applicant is a habitual offender. The gold ornaments which were on the body of deceased were recovered at the instance of Applicant, it shows his involvement in the crime and the gold ornaments recovered at the instance of Applicant were identified by the complainant as belonging to his mother. Learned APP further submitted that the receipts of purchase of the gold ornaments were recovered at the instance of Applicant. It shows his involvement in the crime. Hence requested to reject the Application.

5. I have heard both the learned Counsel.

6. Perused the FIR and charge-sheet. Admittedly, FIR was lodged against the unknown persons in connection of the crime. Police has arrested the Applicant and other co-accused. In the

complaint, complainant has stated that his mother was murdered and when he noticed dead body of his mother, he found that the gold ornaments which his mother was wearing were missing from her dead body. The said gold ornaments along with the receipt have been seized at the instance of Applicant under disclosure statement. The complainant had identified that said gold were belonging to her mother which shows involvement of the Applicant in the crime.

7. In view of the above, I pass following order:

(i) Application is rejected.

(SHIVKUMAR DIGE, J.)

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