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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.2421 OF 2022**

Satish Gaurakh Hawsare

...Applicant

vs.

State of Maharashtra

...Respondent

Mr. Sandip Karnik i/b Sambhaji P. Jangilwad for the Applicant.

Mr. Y. Y. Dabke APP for the Respondent-State.

CORAM : S. M. MODAK, J.

DATED : 21ST APRIL 2023

P. C. :

1. Heard learned Advocate for the Applicant and learned APP for the Respondent-State.

2. Learned APP invited my attention to the order dated 17th August 2022, passed by learned Additional Sessions Judge, Palghar and the observations in para 3. It says that there is material in form of S.D.R and C.D.R relied upon by prosecution so as to show involvement of the Applicant. On the basis of this, learned APP requested some time to go through it, in order to verify the materials.

3. I have heard both of them. After hearing and after perusing the

record, what I find is that the role assigned to the Applicant is of driving the car in which the deceased was taken from Thane to the place where dead body was found. It was found at Ahmedabad highway at Manor, District Palghar. Except this, there is no role assigned to this Applicant.

4. The charge-sheet is filed against in all five persons and present Applicant is accused No.5. It seems that different roles are assigned to all these charge-sheeted accused persons. The deceased Dinesh was eliminated because he was objecting to sexual relationship between arrested accused-Sheetal and arrested accused-Naresh. Whereas the role assigned to accused-Rakesh is that he has put in rope around the neck of the deceased and the deceased was strangled. Whereas the role assigned to accused-Naresh and accused-Ajay is to catch hold the hands and legs of the deceased.

5. The prosecution can certainly argue that the Applicant was very much aware about ill design to eliminate the deceased and it is he, who assisted the main accused persons in carrying deceased from Thane to Manor.

6. My attention is invited to the statement of Atish Gaurakh Hawsare, who is brother of the Applicant. The present Applicant

took Innova car in question from his brother on 23rd March 2023. The Applicant returned on 23rd March 2022 (wrongly typed as 24th April 2022 in his statement). However, at the time of return he has not brought car. When asked, the Applicant gave explanation that it was given to Naresh Bhodane. It is at the instance of present Applicant that the car is seized as per memorandum statement dated 4th April 2023. It was seized from Taluka Manor, District Palghar. One button was found from that car and prosecution case is that button is of the shirt belonging to the deceased. Whereas according to learned Advocate for the Applicant if description of the clothes from the body of deceased as per panchnama is considered, button cannot be said to be of the shirt of deceased.

7. My attention is also invited to two statements from the charge-sheet. They are at pages 78 to 81. It is case of the prosecution that all these accused, except accused No.1 had gone to Panchali Bar and Restaurant at Mulund Check Naka, Wagle Estate. The statement of owner Dayanand Shetty is recorded. It is on page 81. He was present in hotel in intervening night of 23rd March 2022 and 24th March 2022, and more specifically at 1.15 hours. According to him, there were four persons, who had come to his hotel. Out of them he

has identified two persons. He has explained their mental condition. They were frightened, however, he has not stated that present Applicant was present. There was CCTV camera installed in the hotel but there was no back up available.

8. There is one more statement at page 78. It is of one Navnath Chavan, who works as the Manager in Yamuna Wines Shop, Chinchoti, Taluka Vasai. On 23/03/2023, at about 7.45 pm two persons had came to his shop for purpose of purchasing beer. There is CCTV footage. He identified them as Ajay Matera and Naresh Bhodane. The present Applicant is not one amongst them.

9. Considering above materials, it is clear that though the Applicant assisted other accused persons in carrying away deceased, when he was alive, there is no allegation that he has actually played any part in strangulation or catching hold of the hands.

10. There is one more material. It is in the form of collection of CCTV footage in the form of C.D.R. The statement of one Pravin Narvat Chavan at page 74 is there. He works as CCTV camera operator at Khanivade Toll Naka. From the CCTV footage, he has stated that one car bearing No. MH-12-FK-9258 has passed from Bombay towards Gujarat end on 23/03/2022. It is nothing but car

which was used for committing offence and which was driven by the Applicant.

11. Even though the prosecution may be right that the Applicant has actually driven the car, as stated above, he has not actually strangled or taken part in committing murder of the deceased. The charge-sheet is filed for the offence punishable under section 302, 120B, 201 read with 34 of IPC. There is no material to show participation of this applicant in hatching the conspiracy. He is behind bar for almost one year. We do not know when trial will commence. Hence, I am inclined to grant him bail and following order is passed :

ORDER

- (a) The Applicant-Satish Gaurakh Hawsare be released on bail on furnishing personal bond and surety bond of Rs.25,000/- in connection with C.R. No.95 of 2022, registered with Manor police for the offences punishable section 302, 120B, 201 read with 34 of IPC.
- (b) The Applicant shall not threaten the prosecution witnesses or allure them in any manner.
- (c) The Applicant shall give attendance to the Manor police

station on every first and third Thursday from 10 am to 12 noon for one year.

- (d) Needless to say, violating of the condition above will make the Applicant liable for cancellation of bail, after notice to the Applicant.

12. Application is disposed of accordingly.

13. These are my prima facie observations and the trial Court may not be influenced by that.

14. All the parties to act on an authenticated copy of this order.

[S. M. MODAK, J.]