

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

CRIMINAL BAIL APPLICATION NO.2796 OF 2022

Somnath Gurusiddhapa Radde,
Age 24 years, Occ.Education,
R/o.Kharadkar Chawl, Malakappa,
Banegave Chawl, Hadapsar, Mundhwa,
Pune. (Presently at Yerwada Central Prison). Applicant
versus
The State of Maharashtra Respondent

Mr.Aniket Nikam i/by Mr.Amit Icham, Advocate for Applicant.
Mr.N.B.Patil, APP, for State.

CORAM : PRAKASH D. NAIK, J.

Date of Closing the Order : 20th October 2022

Date of Pronouncing the Order : 3rd January 2023

PC :

1. The applicant is arrested on 12th May 2019 in connection with C.R No.188 of 2019 registered with Chandan Nagar Police Station, Pune for offences under Sections 395, 396, 364, 342, 323, 506 of Indian Penal Code.

2. Brief facts of the prosecution case are as follows.

On 26th April 2019 complainant Mahendra Patil received a call from Dr.Sandip Thosar and he informed that amount of Rs.25 crore will be brought from Jalgaon to Pune. The complainant gave this information to Deputy Superintendent of Police Mr.Bhagwat. The complainant again received a call from Dr.Thosar on 27th April 2019 stating that one Sahil Khan will come with money. ON 28th April

2019 Dr.Thosar and Sahil Khan came to the lodge. Complainant and Rahul Shelar went to the lodge namely Coronet Lodge at Khardi. The complainant met Dr.Thosar and Sahil Khan. He was informed that the amount is to be sent to Maval and Hadapsar. The amount will be shown on the next day. On 29th April 2019 the complainant received a call from Dr.Thosar and informed him that he should not go to the lodge as there is risk. Dr.Thosar had returned back to his village from lodge. The complainant then received call from Sahil Khan and therefore he went to lodge with Rahul Shelar. One Tejas Chavan was present at the lodge. He showed money to be disposed off. The complainant tried to record the video. The complainant was called to the room by Sahil Khan. Five persons were present. They took the articles, such as, phone, clock, chain from complainant and Rahul Shelar. Accused took away Rahul Shelar from the said premises. Accused then demanded Rs.5 crores. Complainant was taken to the house of Nitin Phadtare. He managed to enter house of Nitin Phadtare and closed the door. Police came to the spot. Rahul Shelar was assaulted. He was killed by accused. His body was thrown in the river. Investigation proceeded. Several accused were arrested. Charge sheet was filed.

3. Learned advocate for applicant submitted that applicant is entitled for bail on the ground of parity. There is no evidence to show his involvement in killing Rahul Shelar. The CCTV footage does not show that he was in company of the deceased. Rushikesh Nigade, Swapnil Misl and Rakesh Kadam were granted bail. Applicant is in custody from 12th May 2019. Body of deceased could not be traced out.

4. Learned APP submitted that offence is of serious nature. There is sufficient evidence against applicant. He was involved in killing Rahul Shelar. The applicant acted in connivance with the co-accused. The applicant is not entitled for bail on the ground of parity. The role attributed to the co-accused who are granted bail can be distinguished. The applicant was present at Coronet Lodge. He was in company with other accused. He can be seen in the CCTV footage. He has been identified in the test identification parade. There was demand of Rs.5 crores from the complainant. During investigation Police collected CCTV footage of Yashraj Fast Food, Nishisagar Food Mall, Kamla Nagar Katraj, Sharnam Lodge Saswad. Presence of applicant was noticed in the footages. The applicant and other accused took the deceased to unknown place and committed his murder. The body of deceased was thrown in the river to destroy evidence.

5. Perused the charge sheet and orders granting bail to the co-accused. Applicant is not entitled to bail on the ground of parity. The offence is of serious nature. The complainant and Rahul Shelar were abducted. They were assaulted. Their articles were taken away. Rahul Shelar was taken to unidentified place. He was murdered. Initially his body was buried and subsequently the body was thrown in the river. The photos from the CCTV footages produced during the course of hearing of this application indicate presence of Rahul Shelar at Coronet Lodge. The CCTV footage shows presence of Rahul Abdul Sattar at Coronet Lodge. The report of CCTV Footage also indicates that video analysis and subsequent frame by frame visual analysis reveal that male persons present in question video

recording (Coronet Lodge) are found to be similar with reference still photograph stated to be Somnath Gurusiddhappa Radde (applicant). The CCTV footage analysis also show the presence of applicant at Yeshraj Fast Food and Shravan Lodge.

6. Learned counsel for applicant submitted that the co-accused Rushikesh Nigade had identified the role of Swapnil Misal and Rajesh Kadam as similar. Order granting bail to Rushikesh Nigade indicate that he was identified in identification parade which was conducted belatedly, however, he was not seen in the transcript of CCTV footage. Rajesh Kadam was granted bail on the ground that he was identified in the test identification parade. There was no recovery from him. Swapnil Misal has been granted bail. He is not connected with killing of Rahul Shelar. The complainant had identified the applicant in test identified parade conducted on 11th July 2019. The memorandum statement of Rahil Abdul Sattar Chouhan was recorded. He showed the place where Rahul Shelar was killed and his body was thrown. Memorandum statement of applicant was recorded and blood stained clothes allegedly used at the time of killing Shelar were recovered. The car used at the time of killing of deceased Rahul Shelar and carrying his body for throwing it in the river was recovered at the instance of applicant. The memorandum of statement of applicant was recorded on 1st May 2019 in which he stated that after killing Rahul Shelar the body was buried in the pit and subsequently it was removed and thrown in the river. He showed the place where body of deceased Rahul Shelar was buried. Thus, there is sufficient evidence showing involvement of applicant in the crime. The case of applicant can be distinguished from the co-accused. The applicant is not entitled for bail.

ORDER

- (i) Bail Application No.2796 of 2022 is rejected and disposed off.

(PRAKASH D. NAIK, J.)

MST