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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.3783 OF 2021**

Kisankumar Tilkuram Kanojiya ... Applicant
Vs.
The State of Maharashtra ... Respondent

Mr. Amin Solkar with Mrs. Misbaah Solkar with Umang Shah with
Gaurav Shenoy for the Applicant.

Ms. M. R. Tidke APP for the Respondent-State.

Mr. Bhalerao API, Ambarnath police station.

CORAM : S. M. MODAK, J.

DATED : 8TH MARCH 2023

PC:-

1. Heard learned Advocate Mr. Amit Solkar for the Applicant and
learned APP Ms. Tidke for the Respondent-State.

2. The Applicant came to be arrested in connection with C.R. No.I-
80 of 2018 registered under sections 302 and 201 of IPC at
Ambarnath police station. It was registered on 10th April 2018. One
dead body was found by the first informant and hence the offence
came to be registered against unknown person.

3. Whereas present Applicant is accused No.2. He was arrested on
9th December 2018, on suspicion. The allegation is that four accused
persons killed deceased Bindresh Prajapati. The wife of deceased is
accused No.1. The motive is that character of said Savitri was doubtful
and present Applicant is connected to that. Admittedly, the case is

based on circumstantial evidence. According to learned Advocate for the Applicant there is not a single circumstance which connects the Applicant to said crime. He also relied upon the order passed by this Court on 1st February 2021, in Criminal Application No.2297 of 2019. This Court has granted bail to Rajesh Rajnarayan Yadav.

4. There is statement of son of deceased recorded which is on the point of motive, whereas the statement of brother of deceased is also recorded. There is statement of one Saroj. The present Applicant along with accused No.3 were standing in front of his shop. The present Applicant was possessing bed sheet (Chaddar) which was found at the spot. There is CCTV footage collected from another shop wherein this Applicant and accused No.3 had gone for purchasing liquor. There is call details report which indicate presence of the Applicant in and around spot. There is one more circumstance that is about purchasing of knife by this Applicant from one Noor Bhalla.

5. Even though it may be true that on the basis of these circumstances there is suspicion towards the Applicant but for further detention it is not sufficient. There is no recovery at the instance of the Applicant. There is no eye witness to the incident. There is statement of one witness by name Vijay Arjanalakar. This is witness to whom co-accused No.3 has confessed about crime along with the Applicant. This is not extra-judicial confession of the present Applicant. Even this Court has considered this confession while granting bail to co-accused Rajesh Rajnarayan Yadav.

6. Learned APP with all experience tried to connect various

circumstances in order to connect the Applicant to this crime. However, I am not impressed with that. The Applicant deserves to be released on bail.

7. For the above reasons I do not find that continuous detention is warranted. He can be granted bail subject to conditions. In view of that the following order is passed :

O R D E R

- (a) The Applicant-Kisankumar Tilkuram Kanojiya be released on furnishing personal bond and surety bond of Rs.30,000/-.
- (b) The Applicant to give attendance to the concerned police station on every 1st Sunday of the month from 10 am to 11 am till conclusion of the trial.
- (c) Applicant not to threaten the Prosecution witnesses or to allure them in any manner.
- (d) In case of breach of any of the conditions, bail of the Applicant is liable to be cancelled after notice.

8. It is made clear that the observations made herein are prima facie, and the trial Court shall decide the case on its own merits, in accordance with the law, uninfluenced by the observations made in this order.

7. Application is disposed of in the aforesaid terms.

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

(S. M. MODAK, J.)