

AGK

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

**BAIL APPLICATION NO.3593 OF 2022**

|                                  |                |
|----------------------------------|----------------|
| Aniket Alias Sonya Ashok Barathe | ... Applicant  |
| <b>V/s.</b>                      |                |
| The State of Maharashtra         | ... Respondent |

Ms. Shubhangi Parulekar for the applicant.

Mrs. Rutuja Ambekar, APP for the respondent/State.

**CORAM : AMIT BORKAR, J.**

**DATED : JUNE 26, 2023**

**PC.:**

**1.** The applicant is seeking bail under Section 439 of the Criminal Procedure Code, 1973 in connection with C.R. No.378 of 2020 registered with Sangvi Police Station, Pune for offence punishable under Sections 302, 143, 147, 148, and 149 of the Indian Penal Code, 1860.

**2.** One Sushant Jadhav lodged a report on 13 September 2020 alleging that at 1.51 p.m. on 13 September 2020 he received a call from some policeman informing him that his brother Saurabh was injured and admitted in Aundh Hospital. The informant reached the spot and found people gathered on both sides of the road. He found pool of blood there. After reaching the hospital, he found that his brother suffered injuries on right side of ear. The injuries were appear to have been caused by a sickle. He stated that his

brother was having relationship with the wife of co-accused Ayaz Shaikh and, therefore, it is alleged that Ayaz Shaikh and the applicant in connivance with each other assaulted his brother and killed him.

**3.** The investigating agency carried out investigation and recorded statement of witnesses. One of the statement is of Ajinkya Rajendra Ranavare. He has recorded extra-judicial confession of the accused. The weapons were recovered. CDRs were also collected. Vehicle and clothes of the accused persons were seized. The prosecution on completion of investigation filed charge-sheet.

**4.** The applicant filed bail application before the learned Sessions Judge which came to be rejected by order dated 28 March 2022.

**5.** Learned advocate for the applicant submitted that the case is based on circumstantial evidence. Only circumstance against the applicant is extra-judicial confession, recovery of weapon and recovery of clothes. She also submitted that the co-assuced Ayaz Shaikh has been released on bail by this Court on 3 May 2023.

**6.** Per contra, learned APP submitted that the extra-judicial confession inspires confidence. According to her, recovery of weapon and clothes is also strong circumstance to implicate the applicant. All three circumstances are sufficient to prove guilt against the applicant.

**7.** On perusal of the charge-sheet, it appears that the circumstances against the applicant are extra-judicial confession,

recovery of clothes and weapon. Learned advocate for the applicant has placed reliance on CDRs to show that on that date of incident and at the time when incident has alleged to have occurred, the applicant was 15 kms. away from the spot.

**8.** On perusal of the material on record, i.e. extra-judicial confession, at this stage, the applicant having been arrested on 14 September 2020 is in jail from the said date. Prima facie, the role attributed to the applicant needs to be adjudicated during the trial. The report of blood group of the deceased is yet to be received. The blood group on the clothes seized from the applicant is yet to be ascertained. The wife of co-accused had extramarital affair with the deceased. The said extramarital affair is, according to prosecution, the motive of offence. The said accused Ayaz Shaikh has been released by this Court on the ground that trial is yet to start.

**9.** On overall view of the matter, in my opinion, considering the quality of evidence and the fact that other co-accused has already been released and the applicant is in jail since 14 September 2020, the applicant deserves to be released on bail. Hence, following order:

a) The applicant be released on bail in connection with C.R. No.378 of 2020 registered with Sangvi Police Station, Pune for offence punishable under Sections 302, 143, 147, 148, and 149 of the Indian Penal Code, 1860, on furnishing P.R. Bond in the amount of Rs.50,000/- with one or two sureties in the like amount;

- b) The applicant shall, at the time of execution of the bond, furnish his address and mobile number to the investigating officer, and the Court concerned, and shall not change the residence till the final disposal of the case;
  - c) The applicant shall attend the concerned police station on first Monday of every month between 11.00 a.m. to 2.00 p.m. till the conclusion of trial;
  - d) The applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer;
  - e) The applicant shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police;
- 10.** The bail application stands disposed of in above terms. No costs.

**(AMIT BORKAR, J.)**