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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.3550 OF 2022**

Pruthviraj Anil Ghadage ... Applicant
Vs.
State of Maharashtra ... Respondent

Mr. Vaibhav R. Gaikwad with Atharva R. Bingardeve for the Applicant.
Mr. H. J. Dedhia APP for the Respondent-State.

CORAM : S. M. MODAK, J.

DATED : 17TH JANUARY 2023

P.C:-

1. Heard learned Advocate Mr. Gaikwad for the Applicant-accused No.3 and learned APP Mr. Dedhia for the Respondent-State.

2. The Applicant was arrested on suspicion on 25th May 2022, for committing murder along with two others. The name of deceased is Firoz Chand Mulani. The deceased was assaulted and his dead body was thrown in Kanher Canal, Kondave, Satara and there was one sickle lying there. This information was given to police control room and police went there and found dead body. The FIR was registered against unknown person and on complaint of brother of the deceased. He lodged complaint on 4th May 2022, with the Satara police station for offence under section 302 of the Indian Penal Code.

3. Initially, one Shakeel Nijam Faras came to be arrested, but later on, report under section 169 of the Code of Criminal Code was filed.

This Applicant and other two accused came to be arrested, namely, one Vikram Khawale and Karan Jadhav, who is juvenile offender. The police have also filed the charge-sheet.

4. With assistance of both sides, I have perused the papers and the order dated 6th September 2022, passed by the trial Court thereby rejecting the bail. The trial Court has declined to grant benefit of parity. The co-accused - Vikram Khawale was granted bail by the trial Court as per order dated 19th July 2022. The trial Court has differentiated between role of said Vikram and present Applicant.

5. Learned APP invited my attention to statements of one Chetan Patil and Vishal Gavli. Perused the statements. The present Applicant and two other charge-sheeted accused have on 27th April 2022, insisted at petrol pump that their motor-cycle is to be filled with petrol on priority basis. At that time the witnesses Chetan Patil and Vishal Gavli were also present at petrol pump at Kondave, Satara. This Applicant along with two others threatened both witnesses. These two witnesses again on 2nd May 2022, saw present Applicant and two others coming near service center on discover motor-cycle. The accused were going towards direction of old Pune highway, out of curiosity both witnesses followed them. During that journey, accused were stopped by one passer-by and that passer-by is none other than deceased and he also went ahead on said motor-cycle. These two witnesses have witnessed incident only upto time accused went near Canal, after that they are not aware what happened.

6. The prosecution case is that three accused including the

Applicant along with two others murdered deceased and threw away his body in the Canal.

7. Perused the order passed by the trial Court against accused Vikram. There was only confessional statement by Vikram except that there was no material. Whereas the trial Court has come to conclusion that the Applicant inflicted blow with koyata on the head of deceased as one of the circumstance.

8. The prosecution also claims that arrested accused - Vikram was treated in Yashwant hospital on 2nd August 2022. On perusal of the charge-sheet, it reveals that there are various statements recorded of relatives of deceased and relatives of accused persons.

9. The case is based on circumstantial evidence. As stated above, two witnesses Chetan Patil and Vishal Gavli have not witnessed the assault on deceased. There is no other statement of any witness witnessing assault which is relied upon by the prosecution. From these witnesses, there is no recovery of any incriminating article. The circumstance of assaulting with koyata by this Applicant relied upon by the trial Court is not supported by any document as pointed out by learned APP. So the Applicant cannot be kept behind bar and hence, the Applicant is entitle for bail. The following order is passed :

ORDER

- (a) The Applicant – Pruthviraj Anil Ghadage be released on bail on furnishing PR bond and surety bond in the sum of Rs. 40,000/- with one or more sureties of like amount.

- (b) The Applicant shall not threaten the prosecution witnesses.
- (c) After release on bail, the Applicant to give attendance to Satara police station on 1st and 3rd Monday from 10 am to 12 noon for one year.
- (d) The Applicant shall furnish permanent address and contact details to the Inspector of Police of the concerned police station and intimate the change, if any.
- (e) The Applicant shall regularly attend the proceedings before the trial Court.
- (f) Needless to say, violating of the condition above will make the Applicant liable for cancellation of bail.

10. It is made clear that the observations made in this order 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.

11. Application is disposed of in the aforesaid terms.

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

(S. M. MODAK, J.)