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

BAIL APPLICATION NO.3987 OF 2023

PRASAD ADITWAR KOLI

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Adv. Silvin Kale for the applicant.

Ms. Veera Shinde, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 15, 2023

P.C. :

1. Heard learned counsel for the applicant and learned APP for the State.

2. This is an application for bail in respect of the offence punishable under Sections 302, 364, 201, 34 of the Indian Penal Code (hereafter 'IPC' for short) registered on 30.12.2020 vide C.R. No.219 of 2020 with CBD Belapur Police Station.

3. There are in all four accused. The applicant is the accused No.1. The applicant was arrested on 31.12.2020.

4. Learned APP while opposing the application for bail submitted that the applicant has a strong motive for killing

the deceased. It is the submitted by learned APP that the applicant suspected his wife was having an affair with the deceased. This led to the murder of the deceased by the accused persons. For convenience I refer to the order dated 23.11.2022 enlarging the co-accused – Mangesh Aditwar Koli and Datta Aditwar Koli and anr. who are the real brothers of the applicant on bail. The relevant portion of the order reads thus :-

"2. The applicants are real brother and it is alleged that deceased – Dada (Somnath) had an affair with the wife of Prasad Koli (original Accused No.1), who happens to be the real brother of the applicants. On 29/12/2020, at around 09.51 p.m., Prasad Koli along with the applicants armed with sticks and bamboos, entered Minaxi Bar where the deceased - Somnath was present and assaulted him. Thereafter, the whereabouts of deceased – Somnath was not heard for some time till his dead body was found. It is alleged that Prasad Koli along with the applicants have committed the murder of Somnath.

3. As indicated earlier, the motive of the deadly assault is allegedly the affair which Somnath had with the wife of Accused No. 1 - Prasad Koli. The CCTV footage reveals that Prasad Koli along with the applicants armed with sticks and bamboos had entered the bar where the deceased – Somnath was present.

4. Learned APP relied upon statement of another brother - Ravindra of the applicants who stated to have heard from his mother that Pravin Koli and applicants have murdered Somnath. There is no

recovery at the instance of the applicants. The CCTV footage only indicates that Datta Koli and Yogesh Koli entered the bar whereas Prasad Koli was having wooden plank in both his hands, one of which was handed over to Datta Koli. Footage then records that Yogesh Koli was running after deceased to catch hold of him. Apart from this, there is nothing incriminating against these applicants on record. There is no recovery at the instance of the applicants."

5. Learned counsel for the applicant submitted that there are no criminal antecedents reported against the applicant neither does the order of the trial Court reflect anything about the antecedent.

6. Learned APP submitted that the assault was brutal. She invited my attention to the CCTV footage which indicates that the applicant who was wearing blue T-shirt was seen running towards the deceased with wooden plank.

7. So far as the applicant is concerned there is recovery of wooden plank at his instance. I am informed that the applicant's wife resides at Kharghar whereas the applicant is a resident of Belapur. The case is based on circumstantial evidence. The applicant was arrested on 31.12.2020 and is now in custody for almost three years. I am informed that

even the charge has not been framed. In my opinion the applicant can be enlarged on bail considering that the trial is not likely to conclude any time soon however by imposing conditions. The applicant does not appear to be a flight risk. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant-Prasad Aditwar Koli in connection with C.R. No.219 of 2020 registered with CBD Belapur Police Station shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or more local sureties in the like amount.
- (c) The applicant shall attend the Investigating Officer of CBD Belapur Police Station once in a month every first Monday of the month between 11.00 a.m. and 1.00 p.m.
- (d) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.

(e) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(f) Except for attending the trial and for the purpose of reporting to the Investigating Officer, the applicant shall not enter Raigad District after being released on bail, till the trial concludes.

(g) The applicant shall attend the trial regularly. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

8. The application is disposed of.

(M. S. KARNIK, J.)