



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO. 1455 OF 2024

RAJESH MANOJ MAKWANE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. K. N. Shermale
APP for Respondent : Ms. V. S. Chaudhary
...

CORAM : S. G. MEHARE, J.

DATE : 30-08-2024

PER COURT :-

1. Heard the learned counsel for the applicant and the learned A.P.P. for the State.
2. The applicant seeks bail in C.R.No.0267 of 2024 registered with Sangamner City Police Station, Taluka Sangamner, District Ahmednagar, for the offences punishable under Sections 302, 201, and 120B read with Section 34 of the Indian Penal Code.
3. The first information report in brief was that on the date of the incident, the applicant, with other co-accused Sagar and the deceased, were captured in the CCTV footage together in one Bhau Dhaba and the Bar. The CCTV footage reveals that the deceased and the applicant had purchased beer named "Tuborg" and those bottles were found near the dead body. In short, the case of the prosecution against the applicant is that he was last seen in the company of the deceased. The circumstantial evidence is strong against him. He had no explanation for breaking the

company with the deceased. The deceased was brutally murdered. There was a recovery at the instance of co-accused Sagar. The prosecution also has a case that one co-accused Kisan who is the cousin of the deceased, had enmity with the deceased. Hence, he murdered him with the help of co-accused - Sagar and Rajesh.

4. The learned counsel for the applicant has, in his long arguments, argued that there was no recovery at the instance of the applicant. The incriminating evidence was recovered from the spot. He has referred to the spot panchnama and recovered articles. He submits that an inquest panchnama was prepared before the first information report. No blood stains were found on the cloths recovered from the house of co-accused Sagar. He referred to the statement of Anil Sawant and argued that he does not support the prosecution case in two senses. The statement of Vishali Satish Thorat does not connect the applicant that he had purchased those articles. The statement of Rahul Dattatraya Shinde does not throw light on the role of the applicant. He argued that the the dead body was discovered on the next day at 8.00 a.m. He also referred to the panchnama of the CCTV footage and argued that the applicant was not aggressive and it is not sufficient to link the applicant with the crime. None of the witnesses have explained the intention of the applicant to commit the crime. A knife was seized from the spot of the incident. There

is no evidence of his participation in the crime. He had no previous enmity with the deceased. The chain of investigation is incomplete. There are no antecedents to his discredit.

5. In reply to arguments of the learned A.P.P., he referred to the statement of the wife of the deceased and argued that her statement was belatedly recorded. He also referred to the postmortem report, where there were 40 injuries, the clothes of the deceased had blood stains on the clothes of the assailant. Therefore, it is doubtful that the applicant has played a role in committing the crime.

6. The learned A.P.P. has strongly opposed the application. She argued that the circumstantial evidence was against the applicant. There is evidence that the deceased was taken from his home, and he went along with the applicant and co-accused Sagar. She has referred to some relevant witnesses and argued that the evidence is sufficient against the applicant to link him with the incident. The wife of the deceased made a phone call after deceased left the home, that time he told her that he was with his friend and would come back in a short time. She again made a phone call. However, his phone did not respond. It is a strong case of circumstantial evidence. After last seen together, the dead body was found. The incident happened in the evening. Naturally, the dead body must have been found on next date when his family members started searching for him.

7. Perused the papers placed before the Court.
8. The CCTV footage is the best evidence for the prosecution. The CCTV footage specifically reveals that the applicant, co-accused Sagar, Rajesh and deceased, were together. They had purchased "Tuborg" brand wine from the hotel, namely, Bhaucha Dhaba / Hotel, Sangamner. The reliable evidence, at this juncture, against the applicant is there that he and the co-accused met the deceased again after purchasing wine. They left the Dhaba/Hotel, and thereafter, the deceased left. The same bottles were found near the dead body. After leaving the hotel, the applicant and the co-accused went back to their home. The circumstantial evidence against the applicant appears strong and sufficient to show his nexus with a serious case of murder.
9. The learned A.P.P. is correct that in ordinary course there is no reason to have a shirt of the deceased in the house of co-accused. It was the shirt worn by him was recovered. The offence is serious. The prosecution would prove the intention of the applicant from the circumstances during the trial.
10. For the above reasons, the application stands dismissed.
11. The above observations are limited to this bail application.

(S. G. MEHARE, J.)