

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 1013 OF 2022
IN
CRIMINAL APPEAL NO.171 OF 2023**

Rohan Baburao Katale .. Applicant
Versus
The State of Maharashtra and anr .. Respondents
...

Adv. Aditya Raktade a/w Anup Kamble, Dnyanesh Patil, Sumit Vhanbhatte, Santosh Mane for the Applicant.
Mr. S.V. Gavand, APP for the State.

**CORAM: BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ.
DATED : 18th JULY, 2024**

P.C:-

1 The conviction of the appellant Rohan Katale, who has taken out an application for suspension of sentence and securing his release on bail is based upon two circumstances; the first circumstance being, of last seen together with the deceased Abhijit and the other circumstance being recovery of blood stained clothes and the slippers of the deceased under Section 27 of the Evidence Act.

As far as the later circumstance is concerned, PW-18 has chosen to remain silent on this aspect and even as regards the presence of the persons, when the recovery was performed.

This leave us to the circumstance of last seen and the prosecution has relied upon PW-11, PW-13, as well as PW-9 for establishing the circumstance that the applicant accompanied the

deceased at the late night of 7/07/2015, when Abhijit along with Rohan came at the hotel of PW-9, after 1:30 p.m and he delivered tiffin to Abhijit and this witness has last seen him in the C.P.R. Hospital.

He is corroborated by PW-13, who has attributed a motive to the present applicant, who is alleged to have taken money from one Antaral Dhavale, on the pretext that he come for work, but despite mediation by Abhijit and this witness, Sandeep Shinde, has alleged that the applicant neither went on work nor refunded the money. He is also witness on the deceased being in his company at around 11:30 at Shahu Udyan as they were taking meals together and when he asked about the money, Rohan has informed that he do not have the money, but he will arrange for the same. Thereafter according to him Rohan and Abhijit went on motorcycle of Abhjiit and he returned home.

As far as PW-11 is concerned, he has referred to a friend of Abhijit, but there is no reference to the present applicant.

2 Though the case of the prosecution is based on circumstantial evidence, it is necessary for it to establish that each circumstance is so linked to the other, that it leads to a chain of circumstances based on which, a guilt of the accused is the inference to be reached, in a manner that there is no escape for the accused from the chain of circumstances, which must inevitably point out only to him and none else than him.

On testing the prosecution case, on the aforesaid touch stone we find it lacking in establishing the chain of circumstances

and merely one of the circumstance of last seen in absence of any other corroboration, *prima facie* in our view is not sufficient to establish the guilt of the accused.

In any case this matter will have to be appreciated in appeal and therefore, since there is a chance of the appellant succeeding in the appeal, during its pendency, we deem it appropriate to suspend the conviction imposed upon him and also release him on bail.

ORDER

- (a) Application is allowed.
- (b) The sentence imposed on the Applicant- Rohan Baburao Katale vide judgment and order dated 16/01/2020, in Sessions Case No. 197 of 2015 is hereby suspended.
- (c) The Applicant, shall be released on bail in connection with C.R. No. 138/2015 registered with Laxmipuri Police Station, Kolhapur (Sessions Case No. 197/2015) on furnishing P.R. Bond to the extent of Rs.25,000/- with one or two sureties in the like amount.
- (d) The applicant shall mark his attendance on First Monday of every trimester between 5:00 p.m to 6:00 p.m. to the Laxmipuri Police Station.
- (e) On being released on bail, the Applicant shall furnish his contact number and residential address to the Incharge of Laxmipuri Police Station and shall keep him updated, in case there is any change.

(MANJUSHA DESHPANDE,J)

(BHARATI DANGRE, J.)