

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2254 OF 2023

Sourabh Nagnath Gavade	...	Applicant.
V/s.		
The State of Maharashtra	...	Respondent.

WITH

CRIMINAL INTERIM APPLICATION NO. 3343 OF 2023
IN
CRIMINAL BAIL APPLICATION NO. 2254 OF 2023

Hari Yetala Vhalgunde	...	Applicant.
V/s.		
The State of Maharashtra	...	Respondent.

Shri Jaydeep D Mane, Advocate for Applicant
Ms Geeta P. Mulekar, APP for the State.
Shri Akhilesh Jaiswal, Advocate for Intervener.
ASI Salve S.N., Kamati Police Station, Solapur Rural

CORAM : ANIL S. KILOR, J.

DATE : 26TH JUNE, 2024.

PC:

1. Heard.

2. By this application under Section 439 of the Code of Criminal Procedure the applicant is seeking bail in Crime No.0036 of 2023, registered with Police Station, Kamati, District: Solapur for the offences punishable under Sections 302 read with Section 34 of the Indian Penal Code.
3. The learned counsel for the applicant states that the co-accused who used the weapon-Koyata, in the alleged offence, a recovery was made from her i.e. the accused No.1 and she has been released on bail. However, there is no recovery from the present applicant. He, therefore, submits that the case of the applicant is on the better footings than the case of the accused No.1 and as such the applicant, who is accused No.2, is entitled for grant of bail on the principles of parity.
4. He submits that the whole case is based on circumstantial evidence and except the fact that there is a CDR which shows that there was phone calls made by the accused No.1 and accused No.2 to each other, there is nothing to show that the applicant is involved in the alleged offence. He further submits that as the charge-sheet has already been filed, further custody of the applicant is not necessary. Accordingly, he prays for grant of bail.
5. The learned APP strongly opposed the application and points out that by way of the circumstantial evidence the CDR is collected,

which supports the case of the prosecution. Further the clothes having blood stains were recovered from the applicant under Section 27 of the Evidence Act. It is pointed out that there was illicit relations between the applicant and the accused No.1. The accused No.1 had also an illicit relation with the deceased and therefore, the applicant and the accused No.1 both decided to eliminate the deceased. Accordingly they committed murder of the deceased. Accordingly, she prays for rejection of the bail application.

6. The learned counsel for the intervener reiterates the submission of the learned APP and submits that the offence is very serious and since the circumstantial evidence goes against the applicant, this Court may not grant bail to the applicant.
7. Having considered the charge-sheet and the material collected by the Investigating Officer, it is evident that the blood stained clothes were recovered from the applicant under Section 27 of the Evidence Act. Furthermore, CDR shows that the applicant was continuously in contact with the accused No.1 from whom the weapon-Koyata was recovered along with the clothes having blood stains.
8. Thus, sufficient incriminating circumstantial evidence is available on record to show the *prima facie* involvement of the applicant in the alleged offence.

9. In that view of the matter, I am of the opinion that this is not a fit case for grant of bail. The Criminal Bail Application is, accordingly, **Rejected**.

In view of the above, the Criminal Interim Application No. 3343 of 2023 is also **disposed of**.

(ANIL S. KILOR, J)