

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

CRIMINAL BAIL APPLICATION NO. 2772 OF 2023

Vikas Prakash Rathod

...Applicant

Versus

The State of Maharashtra

...Respondent

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Mr. Ritesh Thobde a/w Ms. Ankita Rai, Mr. Changdev Shingade, Adv.
Zubi Ansari, Advocate for the Applicant.

Mrs. Geeta Mulekar, APP for the Respondent – State.

Police Constable, Dhumal, Akkalkot South Police Station, Solapur,
present.

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CORAM : ANIL S. KILOR, J.

DATE : 1st JULY, 2024.

P.C.:

1. Heard.

2. By this application under Section 439 of the Code of Criminal Procedure, the applicant is seeking bail in Crime No.181 of 2022, registered with Akkalkot South Police Station, District: Solapur (Rural) for the offences punishable under Sections 302, 201, 120-B, 364, 365, 368 r/w 34 of Indian Penal Code (for short 'IPC').

3. Having considered the charge-sheet and material collected by the Investigating Officer during the investigation, it is

evident that whole case is based on circumstantial evidence i.e. last seen theory which goes against the Accused No.1 and not against the present Applicant who is Accused No.2. As far as Accused No.2 is concerned i.e. Applicant, the learned APP has pointed out that there is a disclosure of spot at the instance of the Applicant, where the body of the deceased was disposed of and where from bones were recovered.

4. However, nothing is pointed out to the effect that on the date of registration of First Information Report (for short 'FIR') what was the material in possession of the prosecution to implead the Applicant as Accused in the present matter.

5. Furthermore, it may be appropriate to note that the deceased was missing from 11th November, 2021 and the report was lodged in that respect on 13th November, 2021. Thereafter, the FIR was filed on 28th March, 2022 and the Applicant was arrested on 1st August, 2022 and memorandum under Section 27 of the Indian Evidence Act was prepared on 7th August, 2022. Therefore, it is necessary to show by the prosecution, the material available with the prosecution on the date of FIR against the Applicant to implead him as accused in the alleged offence, which the State failed to point out.

6. In the circumstances, though the learned APP strongly opposing the application being the offence is serious, in absence of sufficient evidence against the Applicant.

7. It is to be noted that there was a motive as related to Accused No.1. There was illicit relation of the Accused No.1 with the wife of the deceased.

8. In addition to the same, it is pertinent to note that there are total six Accused persons out of which Accused Nos.3, 4 and 5 were released on bail. Whereas, against the Accused No.6 summary is filed.

9. In the above referred backdrop, I am of the opinion that this is a fit case for grant of bail. Accordingly, the Application is allowed.

ORDER

- i. Criminal Bail Application No.2772 of 2023 is allowed;
- ii. It is directed that the Applicant shall be released on bail in Crime No.181 of 2022, registered with Akkalkot South Police Station, District: Solapur (Rural) for the offences punishable under Sections 302, 201, 120-B, 364, 365, 368 r/w 34 of IPC, on furnishing PR. Bond of Rupees Twenty Five Thousand with one solvent surety in the like amount;

- iii. The Applicant shall attend the Police Station on 1st and 16th day of each month between 12:00 noon to 2:00 p.m. till conclusion of trial;
- iv. The Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also not tamper with the evidence;
- v. Liberty is granted to the State for cancellation of bail if the Applicant commits similar offence;
- vi. The Applicant shall attend the trial before the Trial Court regularly on every date unless exempted by the Trial Court for any reason.
- vii. Application stands disposed off, accordingly.

(ANIL S. KILOR, J.)