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

BAIL APPLICATION NO.450 OF 2024

GOPAL LILABHAI PARMAR

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Adv. Ranjeet H. Patil a/w Adv. Sumitkumar S. Nimbalkar
a/w Adv. Kalpana V. Chate for the applicant.

Mr. S. H. Yadav, APP for the State.

API D. K. Chaudhari, Unit-10, DCB CID, Mumbai.

CORAM : M. S. KARNIK, J.

DATE : MARCH 5, 2024

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, 201, 364, 365 read with 34
of the Indian Penal Code, 1860 (hereafter 'IPC' for short)
registered on 20.10.2019 vide C.R. No.I-623 of 2019 with
Andheri Police Station.

3. There are in all three accused. The applicant is the
accused No.2. The FIR is dated 20.10.2019. The applicant
was arrested on 12.12.2019.

4. By an order dated 08.11.2023 the prime accused – Jayantibhai Patel has been enlarged on bail. For ease of reference the relevant portion of the order dated 08.11.2023 is reproduced which reads thus :-

"2. This is an application for bail in respect of the offence punishable under sections 302, 201, 364, 365 read with 34 of the Indian Penal Code, 1860 registered on 20/10/2019 vide C.R. No.623 of 2019 with Andheri police station.

3. Learned APP opposed the application for bail. There are 3 accused. The applicant is the accused no.1. The FIR is dated 20/10/2019. The applicant was arrested on 12/12/2019. The case of the prosecution in brief is that one Parimal Singh had taken a loan from the present applicant. The deceased was the Mediator who had introduced the said Parimal Singh to the present applicant. The said Parimal was not returning the money along with the interest to the applicant. Neither the said Parimal or the Mediator (deceased) was responding to the phone calls of the applicant. The son-in-law of the present applicant filed a case under section 138 of the Negotiable Instruments Act against the said Parimal. Annoyed by the fact that the money which the applicant had given to the Parimal had not been returned, it is alleged that the applicant with the help of the accused nos.2 and 3 killed the deceased. Learned APP submitted that the applicant had a motive to kill the deceased. It is further submitted that apart from the statement of Parimal, there is a statement of a caretaker of the farmhouse of the applicant who says that some persons had visited the farmhouse. In effect, learned APP tried to make out a case of a last seen together theory. The body of the deceased was identified by one of the relative.

4. The applicant had filed an application for bail earlier in this Court. On 25/03/2021, the applicant was allowed to withdraw the application with liberty to prefer fresh application after DNA report is received.

5. DNA report is yet not available. The charge has not been framed. The trial is likely to take some time to commence. The applicant is in custody for almost for a period of 3 years and 11 months. The entire case rests on circumstantial evidence. The applicant will face the consequences of the trial if found guilty. There are no criminal antecedents reported against the applicant. I am inclined to enlarge the applicant on bail."

5. Learned APP opposed the application for bail. Learned APP submitted that the accusations against the applicant are serious. The DNA report has now been received and it is confirmed that the body is that of the brother of the complainant.

6. Considering that the prime accused has been enlarged on bail and as the role of the present applicant is not more than the prime accused, further that the applicant is in pre-trial custody for more than four years and three months as even the charge has not been framed, the trial is unlikely to conclude soon, I am inclined to enlarge the applicant on bail. There are no criminal antecedents reported against the applicant. Hence, the following order :-

ORDER

(a) The application is allowed.

(b) The applicant-Gopal Lilabhai Parmar in connection with C.R. No.I-623 of 2019 registered with Andheri Police Station shall be released on bail on his furnishing P.R. Bond of Rs.50,000/- with one or more local sureties in the like amount.

(c) The applicant is permitted to furnish cash bail surety in the sum of Rs.50,000/- for a period of 6 weeks in lieu of surety.

(d) The applicant shall attend the Investigating Officer of Andheri Police Station once in a month on every first Sunday of the month between 1.00 p.m. and 2.00 p.m.

(e) 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.

(f) 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.

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

(h) The applicant shall not leave the country without permission of the trial Court.

(i) The applicant shall surrender his passport, if any, to the investigating officer.

7. The application is disposed of.

(M. S. KARNIK, J.)