

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.1292 OF 2024

Rushikesh @ Chintya Mahendra .. Applicant
Kamble

Versus

The State of Maharashtra .. Respondent

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Mr.Satyavrat Joshi i/b Mr.Yash G. Fadtare for the Applicant.

Ms.K.T.Hiwrale, A.P.P. for the State/Respondent.

PSI D.G.Sontakke, attached to Hadapsar Police Station, Pune,
present.

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CORAM: BHARATI DANGRE, J.

DATED : 24th APRIL, 2024

P.C:-

1. The Applicant came to be arrested on 10/08/2019 in connection with C.R.No.580 of 2019 registered with Hadapsar Police Station, Pune on 20/06/2019, which resulted in registration of the offences punishable under Sections 302, 201 read with Section 34 of the Indian Penal Code (for short, “the IPC”).

The subject C.R. arraigns seven persons as accused, out of which Accused Nos.4 to 7 are juvenile. Accused No.1 is Sarita, who is the wife of deceased Prakash and it is the case of the prosecution that Sarita was in relationship with Accused No.2-Tarkesh. It is the case of the prosecution that with the

aid of the co-accused, including the present Applicant, her husband was done to death, by assaulting him by bamboo sticks and fist and kick blows on 19/06/2019, and the offence came to be registered, when his body was recovered on 20/06/2019.

2. The learned counsel Mr.Joshi representing the Applicant, has pointed out to me the two circumstances, which emerge from the charge-sheet and this include a statement of the mother of Accused No.1 viz. Venutai Kadukar, who speak about the estranged relationship of her daughter with her husband, described as a person, addicted to liquor and is accused of misbehaving with her daughter.

On 19/06/2019, she received a phone call from her daughter, informing that she had apprised Tarkesh @ Munna, about the ill-treatment offered to her by her husband and requested him to take certain stringent steps and acting upon the same, Munna alongwith his friends has assaulted her husband and he was killed by them.

According to Venutai, Sarita had told her that Munna alongwith his friends Ashish Badekar, Sahil Shaikh, Abhishek Chavan, Suraj Kharat and Kamble had assaulted her husband and after causing his death, has thrown his body near the canal.

The learned counsel Mr.Joshi is justified in submitting that what is referred to in the extra judicial confession is one Kamble, without the identity of the Applicant being established.

3. Another circumstance is the statement of one Amar Chandanshive, who has stated that on 18/06/2019, he saw Sahil Shaikh, Ashish Badekar, Abhishek Chavan and Suraj Kharat waiting near the house of Sarita and even on 19/06/2019, he noticed that Munna and Chintya Kamble had visited her house and in the evening, Sahil Shaikh, Ashish Badekar, Abhishek Chavan and Suraj Kharat were present near the house of Sarita.

4. These two circumstances definitely, *prima facie*, are not sufficient to indict the Applicant for causing death of Prakash. However, in any case, it is open to the prosecution to prove its case, whether by direct evidence or by circumstantial evidence, connecting the Applicant to the death of Prakash.

The learned APP has relied upon the CDR Report and it is her specific submission that in the night of 19/06/2019, the Applicant was in touch with Accused Nos.1 and 2, and she has invited my attention to the repeated phone calls exchanged between them. Though it may be one of the circumstance in the chain of events, but that by itself, unless the conversation and participation of these accused persons in the crime is clearly established, in my opinion, can only be a corroborative circumstance.

5. The Applicant is incarcerated since 10/08/2019 and despite framing of charge on 30/08/2022, it is informed by learned counsel Mr.Joshi, that there is no progress in the trial.

In the aforesaid circumstances, considering the young age of the Applicant, having no criminal antecedents to his credit, I deem it appropriate to enlarge him on bail, subject to the following conditions:-

: ORDER :

- (a) Application is allowed.
- (b) Applicant -Rushikesh @ Chintya Mahendra Kamble shall be released on bail in connection with C.R.No.580 of 2019 registered with Hadapsar Police Station, Pune on furnishing P.R. Bond to the extent of Rs.25,000/- with one or two sureties in the like amount.
- (c) The Applicant shall mark his attendance before the concerned police station on first Saturday of every trimester between 3.00 p.m. to 5.00 p.m.
- (d) The Applicant shall attend the trial on regular basis.
- (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.

(SMT. BHARATI DANGRE, J.)