

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2078 OF 2024

Tejpal @ Babaji Valmiki

...Applicant

vs.

The State of Maharashtra

...Respondent

Mr. Tapan Thatte a/w. Mohd. Mulla and Mr. Zahir Mulla, for the Applicant.

Mr. Prashant Jadhav, APP, for the Respondent/State.

Mr. Ishwar Chorge, PSI, Malbar Hill police station.

CORAM : N. J. JAMADAR, J.

DATE : MAY 09, 2024

P.C.:

1. Heard the learned counsel for the parties.
2. The applicant, who is arraigned in C.R. No. 22 of 2006, registered with Malbar Hill police station for the offences punishable under sections 302 and 201 of Indian Penal Code, 1860 seeks to be enlarged on bail.
3. On 5th March, 2006, Dattatray Lad who was then posted as a 'Guard' at Raj Bhavan found a body of a person in a plastic bag floating on the seashore. Thus, first informant lodged a report. It transpired that the body was that of Ransing @ Karansing Valmiki. The deceased was working as a 'Sweeper' at Khushidabad Building, Malbar Hill, Peddar Road, Mumbai. The applicant and his brother Dharmpal Valmiki, Satpal Valmiki, Veerpal Valmiki were also working as 'Sweepers'. The applicant and the deceased as well as

Dineshkumar Rajouriya were natives of Sruppur, Tal. Bilsa, Dist. Badayu, UP. Dineshkumar informed the police that a couple of days prior to the occurrence, the deceased informed him that the co-accused Veerpal had borrowed a sum of Rs. 5,000/- from the deceased and was not returning the said amount. On 5th March, 2006 the applicant and the co-accused Satpal had came to Khushidabad building and took away the deceased on the pretext that the rest of the co-accused had called the deceased to return the said amount. Thus, the applicant and the co-accused came to be arraigned.

4. The applicant and the co-accused were absconding. Satpal was arrested on 16th October, 2019. The applicant came to be arrested on 17th October, 2019. Satpal was arrested on 16th October, 2019. Other accused are still absconding.

5. The learned counsel for the applicant submitted that there is no material to connect the applicant with the alleged offence. The prosecution case rests on circumstantial evidence. Two circumstances pressed into service against the applicant are the last seen theory on the basis of the statement of Dhineshkumar and the alleged discovery made by the applicant to point out the place where the weapon, with which the deceased was assaulted, was thrown by the applicant. Therefore, having regard to the nature of

the evidence, the applicant deserves to be enlarged on bail.

6. As against this, Mr. Jadhav, the learned APP, resisted the prayer for bail. It was submitted that the statement of Dineshkumar indicates that the applicant and the co-accused had taken away the deceased on 5th March, 2006. On the next day, the body of the deceased was found floating at the seashore. The applicant and the co-accused had a motive to commit the murder of the deceased. The relations between the applicant and the deceased were strained over a period of time. Attention of the Court was invited to the statement of Siddhappa Natekar who stated about the strained relations between the parties. It was further submitted that the applicant and the co-accused had threatened the mother of Dineshkumar that, one person was eliminated and they would eliminate the second person. Therefore, the applicant may not be released on bail.

7. I have perused the report under section 173 of the Code of Criminal Procedure, 1973 and the documents annexed with it. The autopsy surgeon opined that the deceased died on account of a head injury. Four CLWs were noted by the autopsy surgeon. There was fracture on the skull. The material on record prima facie indicates that the deceased met a homicidal death.

8. The authorship of the death is sought to be established by

pressing into service the circumstances of last seen and the inimical relations between the parties as well as discovery allegedly made by the applicant. Evidently, the statement of Dineshkumar indicates that the deceased had accompanied the applicant as well as the co-accused. On the next day, the body of the deceased was found floating on the seashore.

9. Apart from this last seen circumstance, the other circumstances, do not appear to have conclusive incriminating tendency. The discovery allegedly made by the applicant after 13 years of alleged occurrence, prima facie does not advance the cause of the prosecution, as the applicant had allegedly pointed out the place where the weapon of assault i.e. stick was thrown. Nothing seems to have been discovered pursuant to the statement made by the applicant. Thus, the statement attributed to the applicant does not seem to be distinctly related to the fact thereby discovered. Extra-judicial confession, in the form of threat, appear to have been made by all five accused.

10. The incident occurred in the year 2006. The applicant has been in custody since October, 2019. Though the charge has been framed, the trial has yet not commenced. Thus, having regard to the nature of the evidence, which the prosecution proposes to adduce to bring home the charge of the applicant, further detention of the

applicant does not seem warranted. The apprehension of fleeing away from justice can be taken care of by imposing conditions.

Hence, the following order.

ORDER

- 1] The application stands allowed.
- 2] The applicant be released on bail in C.R. No. 22 of 2006 registered with Malbar Hill police station, on furnishing a P.R. Bond of Rs. 50,000/- with one or more local sureties in the like amount.
- 3] The applicant shall not leave the limits of Mumbai without prior permission of the trial Court.
- 4] The applicant shall mark his presence at Malbar Hill police station on the first Monday of every month between 11 am to 1 pm for a period of three years or till conclusion of the trial, whichever is earlier.
- 5] The applicant shall not tamper with the prosecution evidence and give threat or inducement to first informant, any of the prosecution witnesses or any person acquainted with the facts of the case.
- 6] 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.

7] The applicant shall regularly attend the proceedings before the jurisdictional Court.

8] By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of the entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant and the trial Court shall not be influenced by any of the observations made hereinabove.

Application disposed.

(N. J. JAMADAR, J.)