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

**CRIMINAL BAIL APPLICATION NO. 2342 OF 2022
WITH
INTERIM APPLICATION NO. 3087 OF 2022
IN
CRIMINAL BAIL APPLICATION NO. 2342 OF 2022**

Sopan Waman Panje .. Applicant

Vs.

The State of Maharashtra .. Respondent

.....

Mr. R.D. Suryawanshi for the applicant

Mr. A.A. Palkar, APP for the respondent – State

Mr. Nehal Desale for the intervenor

Mr. N.S. Landge, PSI, Khadakpada Police Station present

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CORAM : PRITHVIRAJ K. CHAVAN, J.

DATED : 19th JANUARY, 2024

P.C.

1. By this application the applicant who is aged about 24 years is being prosecuted for the offences punishable under Sections 302 and 201 of the Indian Penal Code in connection with C.R. No. I-351 of 2021 registered with Khadakpada Police Station, Kalyan.

2. Prosecution story goes as under.

3. Brother of the deceased namely Mukund D. Bhandari had

lodged an FIR on 20.11.2021. It is alleged that the dead body of the deceased Abhiman was found near a stable by one Mr. Akshay Sunil Mhatre. The first informant along with his relatives rushed to the said buffalo stable, where the deceased was found lying with stab injuries on his left chest, left wrist and back. Son of the first applicant - Sumit being a Doctor, examined and declared the deceased as dead. Accordingly, an FIR came to be registered against an unknown person, since, it was the contention of the first informant that his brother was murdered by some unknown person.

4. The Investigating Officer held investigation into the crime. He recorded the statements of the witnesses. The dead body was sent for autopsy. The autopsy report reveals the cause of death as “Hemorrhagic shock due to ruptured heart due to stabbing”. The Investigating Officer had also seized the weapon of offence i.e. a knife alleged to have been seized pursuant a memorandum statement given by the accused while in custody, under Section 27 of the Indian Evidence Act.

5. After investigation, a chargesheet was filed. The matter was committed to the Sessions Court and is awaiting trial.

6. At the outset, learned Counsel for the applicant would argue that the entire case of the prosecution revolves around circumstantial evidence *sans* any direct evidence. He drew my attention to the statement of one Sunil R. Mhatre that the deceased Abhiman had a habit of peeping into the houses of women in the neighbourhood and also in the habit of lifting his *lungi*. He did the same thing with respect to the brother's wife of the applicant due to which the applicant was angry. However, according to the learned Counsel for the applicant, that itself cannot be a ground to refuse bail to the applicant looking to the fact that he is incarcerated for a considerable period without the trial being concluded in the near future. It is submitted that it is not even the case of the prosecution that the deceased was last seen together in the company of the applicant before his death.

7. Learned APP, on the other hand, while objecting the application for bail admits alleged habit of the deceased in peeping inside the houses of the neighbourhood, especially the women.

8. Mr. Palkar, learned APP would further argue that there is an extrajudicial confession of the applicant before one Dinesh Vasudev

Madhavi who happens to be the maternal uncle of the applicant. The statement reveals that early in the morning on 20.11.2021, the applicant had been to his house by informing him that he had a quarrel with someone. The witness, therefore, asked the applicant to leave his house. Except this, there is absolutely nothing in the said statement which is essentially a statement under Section 161 of the Cr.P.C. and cannot be said to be a confession given by the applicant, even remotely, about his complicity in the alleged act of murder.

9. Learned Counsel for the complainant spoke in tune with learned APP by contending that in view of the statement of one more witness namely Nakul V. More, the applicant had disappeared for sometime in the night of 19.11.2021 and again appeared on the following day. The statement further reveals that the applicant had a grudge against the deceased in light of the fact that the deceased had peeped in his house when the applicant's brother's wife was alone at home. The statement of Nakul V. More further reveals that deceased was in habit of peeping into the houses of neighborhood whenever there is any women who is alone. He was also in habit of folding and unfolding his *lungi* while talking with

women. Taking into account the habits of the deceased, it would be unsafe to say that he only had committed the murder of the deceased and none other.

10. Having considered the over all material on record and also in view of the fact that he has been incarcerated for more than 2 years with no likelihood of the trial being concluded in the near future, I am inclined to grant him bail.

11. Learned Counsel for the complainant submits that the applicant is a habitual offender with some offences pending him. That cannot be the only criteria to refuse bail to the applicant in light of the fact that it is not the contention of the learned Counsel that he has been convicted in those offences.

12. Needless to state that these are *prima facie* observations *sans* merits of the case only to the extent of considering application for bail. The trial Court shall not get influenced with the observations made hereinabove.

13. As such, the following order is expedient :-

ORDER

- (i) The application is allowed.
- (ii) The applicant – Sopan Waman Panje be released on executing a P.R. bond in the sum of Rs.20,000/- with one or two sureties in the like amount to the satisfaction of the trial Court in connection with C.R. No. I-351 of 2021 registered with Khadakpada Police Station, Kalyan.
- (iii) The applicant shall attend Khadakpada Police Station, Kalyan on 10th of each month between 10.00 a.m. to 12.00 noon till the charge is framed.
- (iv) After framing the charge, the applicant shall attend the trial Court scrupulously on each date.
- (v) The applicant shall not leave the jurisdiction of Additional Sessions Judge, Kalyan without seeking prior permission.
- (vi) 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 the evidence.
- (vii) The applicant shall furnish his Cell number as well as

residential address to the Investigating Officer and shall inform in case of any change in the Cell number or the residential address.

(viii) Needless to say that breach of any of the conditions would entitle the prosecution to pray for cancellation of bail.

14. The application stands disposed of in the aforesaid terms.

15. In view of disposal of the bail application, pending application/s if any also stands disposed of.

(PRITHVIRAJ K. CHAVAN, J.)