

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

Criminal Bail Application No.2127 of 2023

Ankush Sudhir Tayde
Male, Age 26, Occupation:service
Residing at Room No.708,
Sudhir Niwas Chawl, Near
Shankar Temple, Penkar Pada
Mora Road (East), Thane-401107
Presently lodged at Thane Central
Prison

... Applicant.
(Org.Accused No.2)

Versus

The State of Maharashtra
(through Kashmirira Police Station) ... Respondent.

...

Mr Ravi Dwivedi for applicant.
Mr DJ Haldankar a/w Arfan Sait, APP for State.
PSI SC Belose, Kashmirira Police Station is present.

Coram : R. N. Laddha, J.

Date : 9 May 2024.

P.C. :

By this application, the applicant is seeking bail, in connection with CR No.231 of 2022, registered at Kashmirira police station, Thane, for the offence punishable under Sections 302, 201 r/w 34 of the Indian Penal Code, 1860.

2. Mr Ravi Dwivedi, learned Counsel appearing on behalf of the applicant, submits that the applicant was arrested on 9 April 2022 and since then, he has been behind bars. The Sessions Court rejected the bail application filed by the applicant. The prosecution's case relies solely on circumstantial evidence, as there are no eyewitnesses to the incident. Additionally, the Forensic Report does not support the prosecution's claims, and there are discrepancies in the recovery process of clothing and other items sent to the Forensic Laboratory. Furthermore, there was a delay of one day in drawing the spot panchnama, and the post-mortem report does not provide an exact time of death. There is no apparent motive, and the statements of the witnesses contain contradictions. There is no flight risk as the applicant undertakes to face the trial.

3. On the other hand, Mr DJ Haldankar, learned Additional Public Prosecutor appearing for the State, submits that the applicant and the co-accused meticulously planned and executed the serious offence. The applicant played an active role in the crime, leading to the filing of an FIR against him. The applicant has criminal antecedents and a strong motive behind the crime. In one instance, where the

applicant was an accused (CR No.785 of 2021 registered at Kashimira Police Station), the deceased was a prosecution witness. Additionally, in another case (CR No.483 of 2016 registered at Amboli Police Station), the statement of the deceased's sister indicates that the deceased showed the applicant's house to the police when they came to apprehend him. The prosecution alleges that the deceased's love affair is also the motive. Furthermore, the CCTV footage captured the applicant and the deceased together on the applicant's motorcycle, which he owned and was riding at the relevant time. The statement of the witnesses indicate that the deceased was last seen with the applicant, and the Call Detail Records (CDR) show the communication between the applicant and the co-accused.

4. Having heard the learned Counsel for the rival parties, and upon perusal of the material on record, it reveals that there is material to show the motive behind the commission of the crime. There are criminal antecedents against the applicant, including a previous incarceration related to a case registered at the Amboli Police Station, vide CR No.483 of 2016. The presence of the deceased with the applicant is confirmed by CCTV footage, and the statement of the

witnesses indicates that the deceased was last seen with the applicant. Additionally, the CDR shows communication between the applicant and the co-accused. The applicant cannot be granted bail as prima facie there is sufficient material against him. Moreover, the applicant has criminal antecedents. Accordingly, the bail application stands rejected.

5. It is made clear that the observations made herein are prima facie, and the trial Court shall decide the case on its own merits, in accordance with the law, uninfluenced by the observations made in this order.

[R. N. Laddha, J.]