

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

BAIL APPLICATION NO. 2549 OF 2023

SANTOSH
SUBHASH
KULKARNI

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Satyam Suresh Singh ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Ayush Pasbola, for the Applicant.
Ms. Ranjana Humane, APP for the State/Respondent.

CORAM: N. J. JAMADAR, J.
DATED: 12th MARCH, 2024

ORDER:-

1. Heard the learned Counsel for the applicant and the learned APP for the State/respondent.
2. The applicant, who is arraigned in CR No.411 of 2022 for the offences punishable under Sections 302 and 201 of the Indian Penal Code, 1860 ("the Penal Code") has preferred this application to enlarge him on bail.
3. The first informant is the Police Patil of Kailas Nagar, Valpada, Bhiwandi. On 26th July, 2022, the first informant was apprised that a dead body was dumped in the drain behind C/12 Building, Parasnath Compound, Mumbra. The first informant informed Narpoli Police. With the assistance of

firemen, a body wrapped in a blanket was retrieved from the drain. The first informant lodged the report.

4. During the course of investigation, it transpired that the applicant was residing in Room No.25 alongwith a lady, who identified herself as Sangeeta. They represented themselves as a married couple. On 1st July, 2022, there was a quarrel between the applicant and Sangeeta. While Sangeeta was sleeping covering herself with a blanket, the applicant allegedly smothered her by the said blanket. Thereafter, with the assistance of co-accused Sumit, his brother, and Avdesh, the brother-in-law, the dead body of Sangeeta was dumped in the drain behind C/12 building. It further transpired that name of Sangeeta was Nafeesa, the daughter of Smt. Jaitun Sah, a resident of a village in District Fattehpur, Uttar Pradesh and the deceased had eloped with the applicant, a resident of the same village.

5. Mr. Pasbola, the learned Counsel for the applicant, submitted that the entire case is based on circumstantial evidence. However, the circumstances arrayed against the applicant do not have incriminating tendency. It cannot be said that there is a chain of circumstances which unerringly points to the guilt of the applicant. Mr. Pasbola further

submitted that, at best, it can be stated that the applicant and the deceased were residing together. However, the deceased had left, on her own, on 1st July, 2022 post a quarrel. Therefore, in the absence of any material to show that the applicant was involved in the commission of the murder of the deceased, the implication of the applicant can only be said to be based on surmises and conjunctures.

6. In opposition to this, Mrs. Humane, the learned APP, submitted that there are circumstances which squarely incriminate the applicant. There is material to show that the applicant and the deceased were residing together in Room No.25. A witness had seen the applicant besides the body of the deceased, covered in a blanket. After the occurrence, the applicant had not attended his duty at the nearby factory, where the applicant and the co-accused were working. The applicant had also made discovery under Section 27 of the Evidence Act. Therefore, the applicant does not deserve to be released on bail.

7. I have perused the report under Section 173 of the Code of Criminal Procedure, 1973 ("the Code") and the documents annexed with it. Mr. Pasbola made an endeavour to urge that the very fact that the applicant and the deceased were

residing together is not *prima facie* borne out by the record. The said submission *prima facie* appears to be against the weight of the material on record. There are statements of the mother of the deceased as well as the neighbours, who have stated that the applicant and the deceased were residing together. Moreover, the landlord of the premises where the applicant and the deceased were residing, had categorically stated that he had let out the room to the applicant and deceased Sangeeta. At this stage, this circumstance assumes importance. Since the applicant and the deceased were residing together, purportedly as husband and wife, and the deceased met a homicidal death, the applicant owes an explanation as to the circumstances in which the deceased died.

8. Ms. Neha Gupta, a neighbour of the applicant, has categorically stated that on 1st July, 2022 at about 6.30 pm, she had gone to visit the deceased. The door of her room was shut. Despite knocking, there was no response. She peeped inside the room through the window. The deceased was lying supine with her body covered by the blanket. Eyes were partially open. The applicant was sitting beside her.

9. The prosecution relies on another circumstance of the applicant and the co-accused not reporting to duty since the date of the alleged occurrence. Mr. Pasbola submitted that both the aforesaid circumstances are too fragile. The disclosure under Section 27 also did not result in discovery of any fact.

10. At this stage, the aforesaid submission is required to be appreciated in the light of rather incontrovertible position that the applicant and the deceased were residing as a couple. If the deceased went missing from 1st July, 2022, the conduct of the applicant assumes significance. The statement of Neha, *prima facie*, incriminates the applicant as she had seen the deceased covered with the very blanket in which her body was found wrapped and dumped in the drain. She claimed to have seen the applicant sitting beside the deceased.

11. In the circumstances of the case, it cannot be said that there is no material to connect the applicant with crime. I am, therefore, not inclined to exercise the discretion in favour of the applicant.

12. Hence, the following order.

: O R D E R :

- (i) Application stands rejected.
- (ii) 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.

[N. J. JAMADAR, J.]