

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

BAIL APPLICATION NO. 2691 OF 2024

Rajkumar Ranjan Babulal Paswan	...	Applicant
Versus		
The State of Maharashtra	...	Respondent

Mr. Sandeep Bhupat Satkar for the Applicant.
Mr. Mayur S. Sonavane, APP for Respondent-State.
Ms. Rupali P. Gund, PSI, Bhiwandi Taluka Police Station.

**CORAM: MANISH PITALE, J.
DATE : 2nd SEPTEMBER 2024**

P.C. :

1. Heard learned counsel for the applicant and learned APP for the respondent-State.

2. The applicant is seeking bail as he was arrested on 19th September 2022 in connection with FIR No. 0454 of 2022 dated 16th September 2022 registered at Bhiwandi Taluka Police Station, Dist. Thane (Rural), for offence under Section 302 of the Indian Penal Code, 1860 (IPC).

3. The allegation against the applicant is that he committed the murder of the victim, a woman who was allegedly residing with him in a premises that were rented by him from the landlord.

4. The first informant in the present case is a Police Sub-Inspector, who noticed foul smell coming from a particular room.

After reporting the matter to her superior and further enquiring into the matter, the dead body of the victim was found in the room, which appeared to be in the process of decomposition. FIR was registered and investigation was undertaken. The FIR itself named the applicant as the sole accused person. Eventually, the applicant was arrested from a village in Bihar.

5. The learned counsel for the applicant submits that there is no eye-witness to the incident. It is a case of circumstantial evidence and the circumstances are also not enough to point towards the applicant as the person responsible for the death of the victim. It is submitted that the statement of the landlord read with the supplementary statement, when compared with the alleged tenancy agreement, shows glaring discrepancies and hence, the very basis of connecting the applicant with the incident in question is rendered doubtful. It is alleged that there is no other material on record to support the theory of the investigating authority. In fact, the statements recorded during the course of investigation bring to the fore contradictory circumstances, indicating that the applicant has been made a scapegoat in the present case. It was sought to be indicated that the victim was having relations with a number of men and it could be any one of them, who might have caused the death of the victim. It is further submitted that the applicant is a married man with children and since, the applicant has remained behind bars for about two years, this Court may consider allowing the present application.

6. On the other hand, the learned APP relies upon the material filed along with the charge-sheet, to contend that several circumstances are on record to indicate the involvement of the applicant in the incident in question. It is submitted that although memorandum executed under Section 27 of the Indian Evidence Act, cannot be the sole document for the Investigating Authority to claim that the applicant is linked with the incident in question, but the aforesaid memorandum read with other material on record, including recovery of documents pertaining to the victim from the possession of the applicant, clearly make out a *prima facie* case against the applicant. It is submitted that the victim was brutally assaulted, as the postmortem report describes the number of injuries suffered and the eventual cause of death being head injury. On this basis, it is submitted that the application deserves to be dismissed.

7. This Court has considered the rival submissions in the light of the material available on record. This is certainly a case of circumstantial evidence and there does not appear to be any eye-witness to the incident in question. The dead body of the victim itself was found when foul smell was emanating, indicating that the body was in the process of decomposition. The postmortem report describes in detail a number of injuries suffered on the vital parts of the body of the victim and the cause of death was head injury.

8. The dead body was found in a room and there is sufficient

material on record to link the applicant with the said room. The statement of the landlord, his supplementary statement and copy of the tenancy agreement forming part of the charge-sheet, do make out a strong *prima facie* case against the applicant, as being the person who had taken the room on rent in which the dead body of the victim was found. The contention raised on behalf of the applicant that the tenancy agreement can be said to be doubtful on the basis of alleged contradiction in the statement and supplementary statement of the landlord, would be a matter for trial. At this stage, the material is sufficient to link the applicant with the room in question, where the dead body of the victim was found.

9. Once such a conclusion is reached, as per settled law, if a dead body of a person is found in the house or room with which the applicant has direct connection and the body of the victim shows that death is homicidal and there are serious injuries on the body of the victim, the accused in such a situation is required to come out with an explanation, which at this stage, the applicant is unable to give. In any case, the statements of other witnesses on record do show that the applicant appears to have been in the company with the victim prior to the wake of the incident. The recovery of the documents, including the Aadhar Card, etc. pertaining to the victim, from the possession of the applicant is a circumstance that cannot be ignored and therefore, this Court finds that there is enough material, at this stage, to *prima facie* link

the applicant with the incident in question.

10. The brutality of the assault is evidence from the nature of injuries suffered by the victim and a perusal of the postmortem report indicates the said aspect of the matter. No case is made out for granting bail to the applicant. The application is dismissed.

11. Needless to say, the observations made in this order are limited to deciding the present application and the concerned Court, during the course of further proceedings, shall remain uninfluenced by such observations.

MANISH PITALE, J.