



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (BA) NO.132 OF 2024
(Vrukshapal Sevakdas Patil Vs. State of Maharashtra)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. A.C. Jaltare, Advocate for the applicant.
Ms H.N. Prabhu, APP for the non-applicant/State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- MARCH 20, 2024.

By preferring this application, the applicant is seeking bail under Section 439 of the Code of Criminal Procedure. The applicant came to be arrested on 16/04/2023 in connection with Crime No.264/2023 registered with Police Station Kalmeshwar, District Nagpur for the offence punishable under Sections 302 and 120-B read with Section 34 of the Indian Penal Code.

2. The crime is registered on the basis of report lodged by the brother of the deceased namely Sanjay Ruprao Thakre wherein he alleged that he is residing along with his mother and elder brother. His brother i.e. deceased Vijay was married with one Lata alias Megha Thakre. The deceased suspected that his wife is having love affair with co-accused Sharad Thakre, and therefore, on that count there used to be frequent quarrels between them. Therefore the wife of the deceased left the matrimonial house with her children to live her parental

house. It is further alleged that the deceased informed the informant on 15/04/2023 at about 5:00p.m. that his wife from last four days calling him at her parents house and asking him to stay there for one day, and therefore, he has to go to the parental house of his wife. On this the informant along with one Arun Moze dropped the deceased on his motorcycle at Piplafata at about 6.00 to 6:30 pm. On the next day i.e. on 16/04/2023 at about 8:00 am the informant came to know that dead body of the deceased was found at Dhapewada, Bhadangi Road. Immediately, he rushed to the spot and witnessed the injuries on the person of the deceased. On the basis of said report police have registered the crime against the present applicant and other co-accused.

3. Learned Counsel for the applicant submitted that entire case is based on the circumstantial evidence. The prosecution mainly placed reliance on the circumstances that is seizure of the clothes of the present applicant at the instance of the applicant, seizure of the vehicle at the instance of the present applicant, CCTV footage and the CDR report. He submitted that as far as the seizure of the clothes and the vehicle i.e. motorcycle are concerned, no blood stains are found on both the articles. Thereafter, he invited my attention towards the CCTV footage and submitted that the certificate which is issued along with the CCTV footage panchanama shows that it is of dated 14/04/2023 of 5.55.30 to 06.06.12. He submitted that in the CCTV footage, the presence of the

present applicant, deceased and the co-accused appears to have been seen by the investigating agency. However said CCTV footage is of dated 14/04/2023, but as per the prosecution, in fact it is of 15/04/2023 and as per the said CCTV footage, as per the prosecution, the deceased was lastly seen in the company of the present applicant and the other co-accused. But this fact is falsified by the statement of the witnesses namely Ajay Tale and Kavita Tale who stated that on 15/04/2023, at about 7.00 pm to 7.30 pm, they have seen the deceased in temple of village Kanhaiyadol, Tq. Kalmeshwar, Dist.Nagpur. He further submitted that not only this, but the CDR reports also shows the location of the present applicant at somewhere else and not at the spot of incident. So considering the facts that the circumstantial evidence on which the prosecution relied upon, nowhere connects the applicant with the alleged offence. Now the investigation is completed and charge-sheet is filed. Further incarceration of the applicant is not required, therefore the applicant be released on bail.

4. *Per contra*, learned Additional Public Prosecutor strongly opposed the application on the ground that the CCTV footage shows the presence of the present applicant and CCTV footage is sufficient to show that the deceased was lastly seen with the company of the present applicant and thereafter, he was found dead. She further submitted that the statements of Ajay Tale and Kavita Tale, who are the relatives of the accused no.4 and therefore, their

statements are not material statements and they have given false statements showing the presence of the deceased in the village. She further submitted that CDR report though showing the location different than the location of the spot of incident but it is a small place and it is not difficult for the accused to reach from one place to another. In view of that, considering the connection of the present applicant with the alleged offence, the application deserves to be rejected.

5. Having heard the learned Counsel for both the parties. Perused the investigation papers. There is no dispute as to the fact that deceased was found dead in the area of Dhapewada at road side and death of the deceased was due to the strangulation. The entire case is rested on the circumstantial evidence. As far as two circumstances that seizure of clothes and the vehicle are concerned, no blood stains are shown in the said panchanama either on the clothes of the applicant or on the vehicle. The material circumstance on which the prosecution relied upon is the CCTV footage. As per the certificate of the CCTV footage, it was of dated 14/04/2023 in between 5.55.30 to 06.06.12. Whereas the statement of the informant shows that he has dropped the deceased at piplafata at about 6 to 6:30 pm. The CCTV footage further shows that it was the footage of 14/04/2023, so if this is considered then the alleged incident has occurred during the intervening night of 15/04/2023 and 16/04/2023. Admittedly, at this stage evaluation of the evidence is not required but

whether the circumstances are sufficient to show the connection of the present applicant and to raise the *prima facie* material against the present applicant, this is to be referred to show that the *prima facie* case is made out against the present applicant. Thereafter, the statement of two witnesses which were recorded by the investigating agency during the investigation, shows that the presence of the deceased was seen by them on 15/04/2023 at about 7.00 to 7.30 pm in the village Kanhaiyadhol in one temple. Even accepting the contention of the learned Addl.PP that deceased was lastly seen in the company of the present applicant and co-accused, then also there is a long gap between the lastly seen and the finding of the dead body. The intervention of the third person cannot be ruled out. Considering the nature of the evidence, and as the investigation is completed and charge-sheet is filed, no purpose will be served by keeping the present applicant behind the bar. His further incarceration is not required. Therefore, the application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass the following order :

(i) The application is allowed.

(ii) The applicant – Vrukshapal Sevakdas Patil in connection with Crime No.264/2023 registered with Police Station Kalmeshwar, Nagpur Rural for the offence punishable under Sections 302, 120B read with Section

34 of the Indian Penal Code, be released on bail on executing a P.R.Bond in the sum of Rs.25,000/- with one solvent surety, in the like amount.

(iii) The applicant shall not enter into the village Bellori, Tq. Kalmeshwar, Dist. Nagpur till the conclusion of trial.

(iv) The applicant shall furnish his Cell phone number and address along with the names of his two relatives and their address with address proof.

(v) The applicant shall not directly or indirectly make any inducement and threat or promise to any person acquainted with the facts of the present case.

(vi) The applicant shall attend the proceedings before the trial Court regularly without seeking any exemption unless there are exceptional circumstances.

6. The application stands disposed of.

(URMILA JOSHI-PHALKE, J.)