

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****BAIL APPLICATION NO. 4910 OF 2024**

Deepak Chaitan Gokalani

... Applicant

Versus

State of Maharashtra

... Respondent

.....

Ms. Sana Raees Khan a/w. Ms. Juhi Kadu i/by SRK Legal for Applicant.

Mr. S. M. Mangaonkar, APP for Respondent No.1 -State.

PSI – B.B. Gavhane, Hill Line Police Station present. s

CORAM : SHIVKUMAR DIGE, J.**DATED : 4th FEBRUARY, 2025.****P.C. :**

1. By this application, applicant is seeking regular bail in C.R.No. 301 of 2021 registered with Hill Line Police Station, Ulhasnagar, Thane, for the offence punishable under Section 302 of Indian Penal Code.

2. It is prosecution's case that complainant Kailash Achhra had filed missing complaint about his son on 16.11.2020. In investigation it is revealed that there were number of mobile calls exchanged between the deceased and the applicant. Accordingly, police enquired with the applicant on 18.11.2020. In interrogation on 19.11.2020, the applicant disclosed to the police that Pawan had lent him Rs.3,00,000/-. In investigation it revealed that Pawan was demanding for repayment of this loan amount and was threatening him with the circulation of a private video consisting sexual act between the applicant and the deceased. It is

alleged that on 16.11.2020 at around 9.00 p.m. to 10 p.m., the applicant reportedly killed Pawan at his shop Yash Boutique with co-accused Rohit Pachar by strangulation and hid his body in car dicky of brother-in-law of the applicant.

3. It is contention of learned counsel for the applicant that applicant is behind the bar more than four years and six months, yet there is no progress in the trial. The co-accused has been released on bail. The alleged video clip on which basis the deceased was killed by the applicant has not been recovered by the prosecution. Though it is prosecution's case that blood stains were found on incident spot but in the postmortem report it is not mentioned that the deceased had sustained any injuries. Learned counsel further submitted that there were no injuries on the body of the deceased. The postmortem report shows that body of the deceased was totally decomposed and no DNA of the body of the deceased was taken to identify it. Learned counsel further submitted that the CCTV footage filed along with chargesheet shows that deceased had turned towards Yash Boutique but it does not mean that he had entered in that shop. Moreover, no documents produced on record to show that applicant was the owner of Yash Boutique. The applicant and deceased were not last seen together. Only on the basis of CCTV footage police has arrested the applicant. Learned counsel further submitted that applicant was not owner of the car

in which dead body was found. The prosecution's case is solely based on the circumstantial evidence as well as applicant is behind bar around 4½ years. The applicant has no antecedents. The CDR records produced on record does not match with the prosecution's case, hence requested to allow the application.

4. It is contention of learned APP that CCTV footage produced on record shows that the deceased had gone towards Yash Boutique thereafter after some time applicant came from the same Boutique it was recorded on 16.11.2020 i.e. on the day of incident. Learned APP further submitted that the dead body of the deceased is recovered at the instance of the applicant from the car dicky. The said car owned by the brother-in-law of the applicant and he has stated before police that the said car was taken by the applicant on the day of incident. Learned counsel further submitted that the police has recovered mobile of the deceased at the instance of the applicant. The applicant has reset the said mobile, hence the alleged video clip could not be found in it. Learned APP further submitted that applicant had taken gold ornaments from the deceased and it was pledged with gold smith. The statement of goldsmith shows that applicant had taken amount on the said ornaments by pledging it. Learned APP further submitted that police has seized the bedsheet used for strangulation of the deceased. The police has recorded the statement of wife of the applicant. She has stated

that the said bedsheet was taken by the applicant from her. Learned APP further submitted that police has recorded the statements of two sweepers who have stated that applicant had paid Rs.300/-for wiping out blood stains appearing on the floor of his shop i.e. Yash Boutique. Learned APP further submitted that though the prosecution's case is based on the circumstantial evidence entire chain of circumstances point out guilt of the applicant. There is strong prima facie case against the applicant. Charge has been framed against the applicant. Trial is in progress, hence requested to reject the application.

5. It is contention of learned counsel for the applicant that applicant and his wife has strained relationship and they are living separately since 2018.

6. I have heard both the learned counsel. Perused charge-sheet. The allegations against the applicant are that he and co-accused strangulated the deceased in his shop. The extract of CCTV footage produced shows that on 16.01.2020 around 20:45 applicant had gone to Yash Boutique thereafter around 20.46 deceased had gone towards Yash Boutique. At around 20:49, the applicant came out from the said shop. Around 21:35, applicant was going to Yash Boutique. Thereafter on 17.11.2020 around 6:34 one white car was parked in front of Yash Boutique by taking reverse and at 6:46 the said car moved from the said

Yash Boutique. So these extracts of the CCTV footage shows that on 16.11.2020, deceased had gone towards applicant's shop and complaint was lodged by the father of the deceased that her son was missing from 16.11.2020. The police has recovered the dead body of deceased at the instance of the applicant from the dicky of car. The CCTV footage dated 17.11.2020 shows that one car was parked in front of applicant's shop in reverse manner and thereafter the said car left said spot. It shows that after murdering the deceased, the applicant had put dead body of the deceased in the car dicky and left the spot. The said car belonged to brother-in-law of the applicant. He has stated before police that the applicant had taken his car for some personal use. It appears from the record that at the instance of applicant, police has recovered mobile of the deceased. The statement of witnesses i.e. goldsmith shows that applicant had pledged the gold ornaments of the deceased with them and had taken the loan from them. The statement of sweepers recorded by the police shows that applicant had asked them to wipe out bloodstains on the floor of shop and he had given them Rs.300/- each. The police has seized the bedsheet used in the crime i.e. for strangulating the deceased. The police has recorded the statement of the applicant's wife, she has stated that the applicant had taken the said bedsheet from her. So statement of all these witnesses, extracts of CCTV footage, recovery of the dead body at the

instance of the applicant. The CDR produced on record shows that on the day of incident there were calls exchanged between the applicant and deceased. All these circumstances points out *prima facie* involvement of the applicant in the crime. The charge has been framed against the applicant. The trial is in progress. Considering these facts, I am not inclined to allow the application and I pass following order.

ORDER

- (i) The application is rejected.

(SHIVKUMAR DIGE, J.)

SONALI
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KILAJE

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by SONALI
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