



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO.527 OF 2018

Vinit Pundlik Zalte,
Age : 31 years, Oc. Agri.,
r/o. Sai Samarth Row House,
Room No.6, Datta Chowk,
Nashik

..Applicant

Vs.

The State of Maharashtra

..Respondent

Mr.Joydeep Chatterji, Advocate for applicant

Mr.R.B.Bagul, APP for respondent

CORAM : SANGITRAO S. PATIL, J.

DATE : JUNE 27, 2018

PER COURT

Heard the learned Counsel for the applicant
and the learned APP for the respondent.

2. The applicant has sought the relief of bail in
connection with Crime No.I-13 of 2008 registered in
Sangamner Taluka Police Station, Sangamner,
Dist.Ahmednagar, for the offences punishable under

Sections 302, 201, 120-B read with Section 34 of the Indian Penal Code.

3. It is the case of the prosecution that the deceased Archana was having love affair with accused no.2 - Pratik. She eloped with him and started residing with him at Pune, in a rented premises. The present applicant also joined them. Thereafter, accused no.2 - Pratik started suspecting that the applicant developed illicit relations with the deceased Archana. On that count, there used to frequent quarrels between accused no.2 - Pratik and the applicant. It is alleged that the deceased Archana was insisting for performing marriage with either accused no.2 - Pratik or the applicant. Therefore, they decided to commit her murder. They took help of accused no.3 - Chandrakant for finishing the life of Archana. They took her to Chandanapuri Ghat at Sangamner and committed her murder by strangulating her. They threw her dead body in a deep valley. Her decomposed body was noticed on

09.01.2008. It was identified by her mother and the other relatives. A.P.I. - Ramnath Kundlik Padwale of Police Station, Sangamner, lodged the FIR on 09.01.2008, on the basis of which the above-numbered crime came to be registered against unknown persons. It is alleged that after receiving some secret information, it was transpired that the present applicant and two others were involved in the above-mentioned crime. Therefore, the applicant came to be arrested on 14.10.2017. Presently, he in jail.

4. The learned Counsel for the applicant submits that the alleged incident took place on 08.01.2008. The applicant has been arrested on 14.10.2017. There is absolutely no incriminating circumstance in the evidence of the prosecution to connect the applicant with the alleged offences. He submits that the statement of the co-accused is not at all admissible in evidence. It is alleged that accused no.3 - Chandrakant and the present applicant collectively gave a disclosure statement and as a

consequence thereof, the spot of the incident was shown by them to the Investigating Officer. However, it is not natural and probable that the applicant and accused no.3 would give such composite statement. It would not be helpful to connect the applicant with the alleged offences. He submits that some of the witnesses state that the present applicant was residing with accused no.2 and the deceased Archana in the rented house at Pune. The statements of the witnesses have been recorded after about nine years of the incident. The said witnesses do not state the names of the persons, who were shown to them by the police. He submits that Test Identification Parade of the applicant has not been conducted. In the circumstances, the statements of the witnesses would not be of any help to the prosecution to connect the applicant with the alleged incident. He submits that the applicant has been falsely implicated in this case. The co-accused namely, Chandrakant has been released on bail by this Court vide order dated

07.03.2018. Therefore, on the principle of parity also, the applicant is entitled to get bail. The applicant is ready to abide by the conditions that may be imposed by the Court, in case he is released on bail. The learned Counsel, therefore, prays that the applicant may be extended the relief of bail.

5. The learned APP strongly opposed the application. He pointed out to the statements of the witnesses, who identified the applicant to be a person who was residing with accused no.2 – Pratik and the deceased Archana in the rented house at Pune. He further pointed out to the composite statement of the applicant and accused no.3 – Chandrakant, whereby they offered to show the spot of the incident and accordingly, the spot of the incident was seen by the Investigating Officer in the presence of panchas. He submits that there is a reference of the applicant as a person involved in the above-mentioned offences in the disclosure statement of the co-accused. According to the learned APP, there are strong

circumstances to connect the applicant with the above-mentioned offences. He, therefore, prays that considering the serious nature of the offences, the application may be rejected.

6. As seen from the statements of the witnesses, who claim that the applicant was residing with the deceased Archana and accused no.2 in the rented house at Pune, there is no specific mention that they were knowing the applicant by name. They have not even stated the name or the description of the applicant as the person who was residing with the deceased Archana and accused no.2. The statements of the witnesses have been recorded after nine years of the incident. The applicant is not subjected for T.I. parade. In the circumstances, the statements of the witnesses, prima facie, would not be helpful to the prosecution to establish the identity of the applicant.

7. The statement of the co-accused showing involvement of the applicant in the incident in question, prima facie, is not admissible in evidence. Therefore, it is not of any assistance to the prosecution to connect the applicant.

8. It is strange to note that the composite statement of accused no.3 - Chandrakant and the present applicant is shown to have been recorded by the Investigating Officer, who offered to show the spot of the incident, which was within their special knowledge. It does not appear to be natural and probable that accused no.3 - Chandrakant and the applicant would give a statement in one voice offering to show the spot of the incident. Such a composite statement, prima facie, would not be helpful to establish that either accused no.3 - Chandrakant or the applicant gave any specific statement disclosing the fact, which was within their special knowledge.

9. The case is depending on the circumstantial evidence. The above-mentioned circumstances, *prima facie*, are not sufficiently strong to deny the applicant the liberty on bail. Moreover, the co-accused – Chandrakant has been released on bail by this Court vide order dated 07.03.2018 passed in Bail Application No.155 of 2018. In the circumstances, I think fit to extend the relief of bail to the applicant.

10. It is made clear that the above observations are *prima facie* in nature and shall not influence any other proceedings arising out of the above-numbered crime.

11. In the result, I pass the following order:-

(A) The Application is allowed.

(B) The applicant be released on bail in connection with Crime No.I-13 of 2008 registered in Sangamner Taluka Police Station, Sangamner,

Dist.Ahmednagar for the offences punishable under Sections 302, 201, 120-B read with Section 34 of the Indian Penal Code, on his executing bail bonds in the sum of Rs.25,000/- (Rupees Twenty Five Thousand) with one solvent surety in the like amount, on the following conditions :-

- (i) that, the applicant shall not pressurise the witnesses or tamper with the prosecution evidence in any manner.
- (ii) The applicant shall not indulge in any criminal activity.
- (C) Bail bonds shall be furnished before the trial Court.
- (D) The application is accordingly disposed of.

[SANGITRAO S. PATIL, J.]

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