

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

CRIMINAL BAIL APPLICATION NO. 23 OF 2015

Rohit Bhausahab Ingale	.. Applicant
V/s.	
The State of Maharashtra	
(Through MIDC Bhosari Police Station)	.. Respondent

Mr. Satyavrat Joshi for the applicant.
Mr. Arfan Sait APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.
DATE : 9th March, 2015

PC.

1. Heard.

2. This is an application u/s. 439 of Criminal Procedure Code. The appellant herein was arrested on 05th August, 2014 in Crime No. 149/2014 registered at MIDC, Bhosari Police Station for offence punishable under section 302 of Indian Penal Code. The investigation is completed and charge sheet is filed.

3. It is the case of the prosecution that on 3rd August, 2014 Mrs. Nilam Vishal Mane was informed by small children that unidentified body is lying in the agricultural land of one Shri. Tekale. She went to the said spot. She noticed that there was a stone next to the dead body. She immediately contacted the police by dialing number 100. The police had reached the spot on that day. She learnt that the said dead body was of Mahesh Sawant and that he was a resident of Sanjay Gandhi Nagar. It is specifically

stated by her that body was in a decomposed state and that it was emanating foul smell. The compilation of chargesheet would reveal that on 05th August, 2014 the mother of deceased Mahesh had lodged a missing report. On the same day i.e. on 05th August, 2014 Indubai Baban Patil alias Indubai Sawant, i.e. mother of deceased Mahesh Sawant, lodged a report at the police station against unknown person causing homicidal death of her son.

4. The Post-Mortem was conducted on 05th August, 2014. It was seen that the body was in a decomposed state and that the deceased had sustained multiple incised wounds, abrasion etc. On 12th August, 2014 the supplementary statement of the first informant was recorded. That was the first time when she had implicated the present applicant. She has stated about the motive which was known to her and that was in respect of present applicant and others. There was damage to the motor vehicle of the deceased which was registered in the name of the first informant. The deceased was insisting upon the applicant and co-accused to compensate for the damage and for the same reason the son of the first informant was eliminated.

5. Learned APP submits that there is another witness which would show a different motive for causing homicidal death of the deceased. The evidence, as far as motive is concerned would be elicited at the time of recording of substantive evidence. It prima facie appears that on 3rd August, 2015 the body was in decomposed state. It would clearly indicate that the said deceased had died more than 24 hours prior to finding of his dead body. However, the missing report would show that the deceased was missing from his

house since 3rd August, 2014.

6. Learned APP submits that the statement of one of the witnesses would indicate that on 3rd August, 2014 the deceased was seen alive. It prima facie appears that besides motive, there is no cogent and convincing material implicating the present applicant. The investigation is completed and chargesheet is filed. Hence the applicant deserves grant of bail.

7. It is made clear that co-accused cannot claim parity with the present applicant.

8. It is made clear that the above mentioned reasons for grant of bail are prima facie in nature and shall not be considered for the purpose of quashing of FIR, discharge application or at the time of trial.

9. Hence following order :

ORDER

(i) The application is allowed.

(ii) The applicant be enlarged on bail on furnishing P. R. Bond in the sum of Rs. 15,000/- with one or two sureties in the like amount.

(iii) The applicant shall report to the concerned police station on 1st Sunday of every month till the conclusion of the trial.

(SMT. SADHANA S. JADHAV, J.)