

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.2389 OF 2015**

Manoj Sukdeo Ghute

..Applicant

v/s.

The State of Maharashtra.

..Respondent

Mr. M. N. Sandhyanshiv for the Applicant

Mrs. G. P. Mulekar, APP for the Respondent-State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED : DECEMBER 17, 2015.

P.C.

. This is an application for bail filed by the aforesaid applicant who is facing trial in Sessions Case No.108/2014 pending on the file of Additional Sessions Judge at Malegaon, District Nashik. The said case arises from C. R. No.I-104/2014 registered with Cahhvani Police Station for offence punishable u/s. 302 r/w. 34 of the Indian Penal Code.

2. The allegations against the applicant are that on 6/8/2014, the applicant alongwith co-accused committed murder of Anil Gangadhar Khairnar. The said crime was registered pursuant to the FIR lodged by Jijabai Dagdu Sonwane, sister of the deceased. In the course of the investigation, the applicant and the co-accused Raj @ Balla Mahabli Jayswar were arrested. On completion of the

investigation charge-sheet has been filed and the case has been committed to the Court of Sessions, Malegaon. The applicant had filed an application for bail which has been rejected by the Additional Sessions Judge, Malegaon. Hence this application for bail is filed under section 439 of Cr.P.C.

3. Mr. Sandhyanshiv, learned Counsel for the applicant submitted that the co-accused has been granted bail and that the present applicant is entitled for bail on the ground of parity.

4. Mrs. Mulekar, learned APP submitted that there is prima facie material on record to show the involvement of the applicant in commission of the crime and therefore the applicant is not entitled for bail.

5. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties. The records prima facie reveal that on 6/8/2014 between 7.00 to 7.30 a.m. the body of Anil Khairnar was seen lying in front of temple of Saptshrungi Devi, near Indore tyre-wala shop, Mumbai-Agraroad, Malegaon. The said body was sent for post mortem. The post mortem report shows that death of Anil Gangadhar Khairnar was due to crush

injuries on right side of face and brain and stangulation.

6. The applicant and the other co-accused was arrested on the basis of suspicion. The only material relied upon by the prosecution against the applicant is recovery of clothes at the instance of the applicant. Apart from the said circumstances, there is no other material to show the involvement of the applicant in commission of the crime. It is to be noted that under similar circumstances the co-accused has been released on bail. The applicant is therefore entitled for bail on the ground of parity. Hence the bail application is allowed on the following terms and conditions:

- i) The Applicant is enlarged on bail on furnishing P.R.Bond in the sum of Rs.25,000/- with one or two sureties in the like amount ;
- ii) The Applicant shall inform their latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the Chhavani Police Station, Malegaon, District – Nashik;
- iii) The Applicant shall attend the Chhavani Police Station, Malegaon, District – Nashik, on the first Saturday

of every month, between 10.00 a.m. to 11.00 a.m., till the conclusion of the trial ;

iv) The Applicant shall not leave Malegaon, District – Nashik, without the permission of the Trial Court ;

v) The Applicant shall not tamper or attempt to contact or influence the complainant or any persons concerned with the case;

vi) The Applicant shall co-operate in the conduct of the trial and shall attend the concerned Court on every date of the hearing ;

vii) An undertaking to the aforesaid clauses ii) ; iii) ; iv) ;

v) and vi), shall be filed by the Applicant, in the Trial Court, within two weeks after his release ;

viii) It is made clear, that if there is breach of any of the conditions as stated above, the prosecution shall be at liberty to seek cancellation of Applicant's bail.

(ANUJA PRABHUDESSAI, J.)