

Nalawade

FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 446 OF 2016

Vinod D. Chauhan.Applicant.
Vs.
The State of Maharashtra.Respondent.

Mr. B.P.Pandey i/by Vikas B. Pandey for the Applicant.
Smt.Rutuja Ambekar, APP for the State.

CORAM :A.S.GADKARI, J.
DATE : 20th September, 2016

P.C.

1) This is an application under Section 439 of the Cr.P.C. for bail in CR No.I-16 of 2015 registered with Tarapur Police Station, District Palghar under Section 302 read with 34 of the Indian Penal Code.

2) The prosecution case in nut shell is that the deceased Vinod Choudhary had taken hand loan from the applicant. The other two co-accused (absconding) namely Ramesh Chauhan and Sohith Mithailal Ram Gautam were working with the applicant in his garage. That despite repeated demands the deceased did not repay the said amount to the applicant and therefore, the applicant along with other accused persons committed the murder of the deceased Vinod Chauhan on or before 1.5.2015 near the crematorium of Khatwalipada Village Parnali of District Palghar. The first information report is lodged by Vijay Mandave a resident of Parnali Village Taluka and District

Palghar against unknown persons after noticing of dead body of unknown person at the scene of offence. It is stated in the first information report that the hands of the said dead body were tied by a nylon rope and cello tape was pasted on his nose and mouth. After lodgment of the FIR, the police investigated the crime and have submitted the charge sheet in the Court of competent jurisdiction.

3) Heard the learned counsel for the applicant, the learned APP and also perused the entire charge sheet annexed to the application.

The learned counsel for the applicant submitted that except the recovery of a mobile phone of the deceased from the applicant there is no other evidence on record to connect and show the complicity of the applicant in the present crime.

After perusing the entire charge sheet it appears that there is substance in the submission of the learned counsel for the applicant.

The learned APP submitted that a part of the nylon rope, which was tied to the hands of the deceased was recovered from the accused under Section 27 of the Evidence Act. It is to be noted here that, both the said articles are discovered at the instance of the applicant by effecting a common panchanama dated 18.5.2015. The Chemical Analyser's report in respect of the said nylon rope is not yet received by the Investigating Officer. The learned APP further submitted that the applicant does not

have any fixed place of residence in District Palghar and he is originally hails from Uttar Pradesh. He further submitted that if the applicant is released on bail he will not be available for trial. The said apprehension of the prosecution can be taken care of by imposing stringent conditions. In view of the above, the applicant has made out a case for his release on bail.

- 4) Hence, the following order.
 - a) The applicant be released on bail in CR No.I-16-2015 registered with Tarapur Police Station, District Palghar on his furnishing PR bond of Rs.50,000/- with one or more solvent local sureties in the like amount.
 - b) After his release from Jail the applicant shall attend the Tarapur Police Station once in a month i.e. on every 1st Monday of the month between 11.00 a.m. to 2.00 p.m.
 - c) The applicant shall attend all the dates before the Trial Court.
 - d) Any two consecutive defaults in complying with the aforesaid conditions shall attract the provisions of Section 439(2) of the Cr.P.C.
 - e) Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)