

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

CRI. BAIL APPLICATION NO. 879 OF 2016

Deepak Ramesh Vidhate ... Applicant.

V/s.

The State of Maharashtra ... Respondent.

Mr. Satyavrat Joshi, Advocate for the Applicant.

Mr. Deepak Thakre, A.P.P. for the Respondent – State.

CORAM : A. M. BADAR, J.

DATE : 29th JULY, 2016

P.C. :

1 The applicant/accused in Crime No. 304 of 2014 for the offence punishable under sections 302 of the Indian Penal Code, registered with the Daund Police Station, Dist. Pune at the instance of informant, by this application under section 439 of the Criminal Procedure Code is praying for releasing him on bail.

2 Heard the learned counsel appearing for the Applicant/accused. He argued that only circumstance pressed into service against the applicant by the prosecution is his confessional statement and resultant panchanama by which it is averred by the prosecution that the applicant/accused has

shown spot of the incident. The other circumstance is seizure of cloths of the present applicant.

3 Learned APP opposed the application by submitting that the offence is punishable with life or death, as the applicant is accused of committing murder of deceased - Balu Laxman Kharat, the father of informant-Viky Kharat.

4 Perused the chargesheet. According to the prosecution case, informant Viky Kharat is a close friend of the present applicant/accused. They both used to consume liquor. This fact infuriated Balu Laxman Kharat, the father of informant-Viky. Therefore, on some occasions Balu had assaulted the present applicant. In order to take revenge, the applicant/ accused is said to have committed murder of Balu Kharat by assaulting him by means of Koyta.

5 FIR is lodged by Viky Kharat on 29.09.2014, alleging that his father Balu Laxman Kharat is murdered near new building at Defence Colony, Daund. This FIR is against unknown person. Thereafter, the spot panchanama came to be recorded after inspecting the spot of the incident. Subsequently, the present applicant came to be arrested on 07.03.2015. Confessional statement of the applicant/accused came to be recorded on 10.03.2015 and according to the prosecution case, the applicant had shown the spot or incident

where the deceased was murdered. This spot was already known to the police, as spot panchanama was already recorded. On 09.03.2015 shirt and jean pant of the present applicant came to be seized. The seizure panchanama does not show that those clothes were having stains of blood. It is not in dispute that this is the only evidence against the present applicant. Nature of the evidence against the accused is relevant consideration while deciding his bail application.

6 Considering the nature of evidence available against the present applicant/accused, his pre-trial detention is not warranted and, therefore, the order :

ORDER

- i. The bail application is allowed.
- ii. The applicant/accused in Crime No. 304 of 2014 for the offence punishable under sections 302 of the Indian Penal Code, registered with the Daund Police Station, Dist. Pune at the instance of informant, be released on bail on executing PR Bond in the sum of Rs. 10,000/- and on furnishing solvent surety in the like amount.

- iii. As a condition of this order, the Applicant should co-operate with the trial court in expeditious disposal of the trial.
- iv. In addition, the Applicant/accused is directed that he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade such person from disclosing such facts either to the Court or to any police officer and that applicant shall not tamper with the prosecution evidence in any manner.
- v. The applicant should not commit any offence of similar nature in future.
- vi. The bail application is disposed of accordingly.

(A. M. BADAR, J.)

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