

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

CRIMINAL BAIL APPLICATION NO. 1110 OF 2016

Sachin Kisan Hake.	... Applicant.
Versus	
The State of Maharashtra.	... Respondent.

Mr. Chirag R. Sonecha i/b. Mr. Kedar J. Patil, advocate for Applicant.

Ms. Veera Shinde, APP for State.

**CORAM : SMT. SADHANA S. JADHAV,J
DATE : OCTOBER 15, 2016**

P.C.:

1 Heard the learned Counsel for the applicant and the learned APP for State. Perused the papers.

2 This is an application under Section 439 of the Code of Criminal Procedure, 1973. The applicant herein is arrested on 15/6/2015 in Crime No. 228 of 2015 registered at Kavathe Mankal Police Station for offence punishable under Section 302, 201, 120B of the Indian Penal Code. The investigation is completed and charge-sheet is filed.

3 It is the case of the prosecution that the present applicant happens to be the elder brother of Suresh @ Japan (Japya) Kisan Hake. They were living separately. That on 15/6/2016 PI of Kavathe Mankal Police Station lodged a report at the police station that an abandoned dead body was found in the well of Aarewadi Shivar on Dhalewadi Road. The report was lodged by the police patil of the said village. The dead body was identified by some person as that of Suresh @ Japan (Japya) Kisan Hake.

4 Initially, accidental death was registered. Investigation was conducted in A.D. No. 55 of 2015. The body was sent for post mortem. Column No. 17 of the post mortem notes clearly indicated that the deceased had sustained contused lacerated wound at parietal region. They were bone deep injuries. He had also sustained injuries over the occipital region and fracture of skull bone. There were anti mortem injuries. That the cause of death was shock due to bone deep injuries on the head.

5 In the course of investigation, it was surfaced that the present applicant wanted to grab the property of the deceased which had come to his share in the partition. He had hatched conspiracy to eliminate his brother Suresh. The wife of Suresh namely, Anita Suresh Hake had withdrawn herself from the society of her husband. In the course of investigation, statement of Anita was recorded, in which she had disclosed to police that on earlier occasion the present applicant had assaulted her husband in such a manner that he had totally damaged the right eye of her husband.

6 The Investigating Officer had also recorded the statement of one Sarubai Khandekar who has clearly stated that there was intermittent quarrel between Suresh Hake and Sachin Hake over the property. According to her, on 6/6/2016 her nephew Suresh Kolekar had taken motor cycle of the present applicant and had taken away Suresh Hake from the house. Suresh Hake had not returned home. On 8/6/2015

dead body of Suresh Hake was found. On 23/6/2016 Suresh Kolkekar was arrested.

7 The learned Counsel for the applicant submits that except motor cycle there is no evidence against the present applicant. As against this, the learned APP submits that motor cycle as well as weapon used in the assault have been recovered at the instance of the present applicant. It is also submitted that the present applicant happens to be the close associate of the original accused Suresh Kolekar and the witnesses have categorically stated that the present applicant had conspired with the co-accused to cause homicidal death of his brother only to grab the property.

8 It is a case of circumstantial evidence. The dead body was also identified by some of the villagers. The conduct of the applicant would assume significance under Section 8 of the Indian Evidence Act. The compilation of the charge-sheet clearly indicates that the present applicant had conspired with the co-accused to cause

homicidal death of his brother Suresh Hake. In view of this, there being sufficient material, the application stands rejected.

9 However, it is made clear that the observations made herein above are prima facie in nature and are restricted to the application under section 439 of the Code of Criminal Procedure, 1973. The learned Sessions Judge shall not be influenced by the same at the time of trial.

10 The application stands disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)