

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

**CRIMINAL BAIL APPLICATION NO. 1113 OF 2016**

Sou. Nilabai Devidas Dhavare. ... Applicant.  
Versus  
The State of Maharashtra. ... Respondents.

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Mr. Rupesh A. Zade, advocate for Applicant.

Ms. Veera Shinde, APP for State.

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**CORAM : SMT. SADHANA S. JADHAV,J  
DATE : AUGUST 23, 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 15/1/2016 in Crime No. 19 of 2016 registered at Baramati Taluka Police Station. The applicant is charge-sheeted for offence punishable under Section 302, 113 read with Section 34 of the Indian Penal Code.

3 It is the case of the prosecution that the deceased Manoj had some illicit intimacy with the daughter-in-law of the present applicant. That the daughter-in-law of the present applicant happens to be the wife of the original accused No. 1, who is in custody. It is the case of the prosecution that on 13/1/2016 the applicant has questioned her son Bunty @ Ankush as to how many days, he would spare Manoj. It is alleged that the first informant who happens to be the father of Manoj has overheard the said conversation. On 14/1/2015 at about 7.40 to 7.45 a.m., the complainant had received a phone call that the son of the present applicant and his friends were seen in the company of Manoj. That Manoj had not returned home. In the course of searching Manoj, he was found in an abandoned condition at the side of the road. He was dead.

4 The evidence as far as the the son of the present applicant is concerned, would be in the nature of last seen together. As far as the present applicant is concerned, the only allegation is that she had instigated her son to eliminate Manoj. The applicant being a woman

would be entitled to the relief of bail with the aid of proviso to Section 437 of the Code of Criminal Procedure, 1973. The only allegation is in respect of instigation. Hence, further incarceration would not be warranted. However, the co-accused who was lastly seen in the company of the deceased would not be entitled to the same relief by virtue of doctrine of parity.

5 Taking into consideration, the nature of allegation, the application deserves to be allowed. 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 considering the application for quashing of FIR or discharge or at the time of trial.

6 Hence, following order is passed.

**ORDER**

(i) The application is allowed.

(ii) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- and one or two sureties in the like amount.

(iii) The applicant shall report to the concerned police station as and when called by the Investigating Officer by issuing notice under Section 160 of the Code of Criminal Procedure, 1973.

(iv) The applicant shall furnish her address and contact number to the concerned Investigating Officer.

(v) The applicant shall not tamper with the evidence.

7 The application is disposed of accordingly.

**(SMT. SADHANA S. JADHAV,J)**