

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1216 OF 2016

Bandya @ Narasgonda Adgonda ChinchwadeApplicant

V/s.

The State of MaharashtraRespondent

Mr. Kedar J. Patil Advocate for Applicant.

Ms. Veera Shinde APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : 29th NOVEMBER, 2016.

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is arrested on 22/01/2016 in crime no. 5 of 2016 registered at M.I.D.C. Kupwad Police Station. Investigation is completed and charge-sheet is filed against the applicant for offence punishable under sections 302, 143, 144, 147, 148, 149, 120 (B) of the Indian Penal Code and under section 4 r/w 25 & 27 of the Indian Arms Act.

2) It is the case of the prosecution that on 20/01/2016, Ramesh Sarode lodged a report at the police station alleging therein that his son Sajjan was studying in Chintamanrao Commerce College, Sangli in 12th standard. That

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on 19/01/2016, at about 8.00 a.m., Sajan had left the house for distributing invitation card for the marriage of daughter of one Mahesh Dombé. He had returned at about 7.30 p.m. He then left the house and did not return home. On the next day i.e. on 20/01/2016, Bhimrao Sarode and Rohit Sarode asked Ramesh to accompany them. They had taken him to Bharat Spinning Mills. There, the dead body of Sajan was seen. It was clear that Sajan has died a homicidal death. On the basis of the said report, crime no. 5 of 2016 was registered at M.I.D.C. Kupwad Police Station against unknown person.

3) In the course of investigation, Investigating Officer had recorded the statement of Pravin Yadav who was attached to M.I.D.C. Kupwad Police Station. He had disclosed to the police that on 19/01/2016, there was a social gathering in R. P. Patil High School and he was posted there to control Law and Order situation. That at about 8.00 p.m., he had seen history-sheeter Gajanan Gavali and his associates, Bandy Chinchwade i.e. present applicant, Hanmant Kamble and 9 to 10 other persons who were witnessing the social gathering. Police constable had suspected foul play as the said boys were history-sheeters. He had also seen Sajan Sarode and Suhail Jamadar witnessing the social gathering. It is clear that applicant was seen at the social

gathering from where Sajan was found to be missing. There are similar statements of another police constable who has stated that at that relevant time, Gajanan Gavali and the present applicant were consuming alcohol just outside the said college where there was social gathering. Rakesh Chougule had disclosed that he had also seen the deceased along with Suhail Jamadar and thereafter, Sajan had left in the company of Suhail Jamadar near Bharat Spinning Mill.

4) The learned counsel for the applicant submits that there is no incriminating material against the present applicant and therefore, applicant deserves to be enlarged on bail.

5) The learned APP has submitted that applicant has criminal antecedents and he is being prosecuted for offence punishable under section 302 and 379 of the Indian Penal Code. Charge-sheet also indicates that accused persons had motive to eliminate Sajan as according to them he was harassing the sister of original accused no. 3 who was also a fiancée of Gajanan Prakash Gavali i.e. original accused no. 1.

6) The learned counsel for the applicant vehemently submits that present applicant has been acquitted in Sessions Case No. 160 of 2008 wherein he

was tried for offence punishable under section 302 r/w 34 of the Indian Penal Code.

7) Perused the Judgment of the learned Sessions Court. It appears that prosecution had not examined eye witnesses and eye witnesses who were examined did not inspire the confidence of the court.

8) The learned APP has further submitted that there is sufficient incriminating material against the present applicant and he does not deserve to be enlarged on bail.

9) Application being sans merits, stands rejected.

(SMT. SADHANA S. JADHAV, J.)