

Nalawade

FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 1547 OF 2016

Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
--	---------------------------

Ms. Vrishali Raje for the Applicant.
Shri. A.S. Patil, APP. for the State.

CORAM : A.S.GADKARI, J.
DATE : 31st August, 2016

P.C.

1) This is an application under Section 439 of the Cr.P.C. for bail in CR No. I-86-2013 dated 21.7.2013 registered with Kasa Police Station, Thane (Rural).

The first information report is lodged by Sunil Thakur. It is the prosecution case that the deceased was having love affair with the sister of the applicant namely Ms. Pooja Gadag. That, on an earlier occasion said Ms. Pooja had eloped with the deceased Kamlesh to Vickramgad. The villagers from Vickramgad there after called the relatives of the applicant and Ms. Pooja was given in the custody of her father. As the deceased was having affair with the sister of the applicant, the applicant was had grudge against the deceased Kamlesh. It is the

further prosecution case that on 20.7.2013 at about 10.30 p.m. the applicant along his friends had been to Ashoka Hotel at Charotinaka. The deceased Kamlesh was also there. There were altercations between the applicant and the co accused on the one side and deceased Kamlesh on the other hand. The altercations resulted in the scuffle and in the said scuffle applicant all of a sudden gave a blow with a sharp edged weapon on the neck of the deceased Kamlesh. The witnesses who were present at the scene of offence admitted Kamlesh in the hospital. Kamlesh succumbed to the injuries in the hospital. After lodgment of the first information report the police investigated the matter and submitted charge sheet in Oct.2013.

2) The applicant was arrested on 21.7.2013. During the course of investigation a razor used for shaving with blood stains is discovered at the instance of the applicant by effecting panchanama under Section 27 of the Evidence Act. The post mortem notes mentions the opinion as to the probable cause of death as “hemorrhagic shock due to cut throat injury”. There are eye witnesses to the present crime who are corroborating the version of the first informant.

It is to be noted here that co accused namely Rakesh Raut had preferred Cri. Bail Application No.1222/2014 in this Court and the said application was dismissed as withdrawn by an order dated 9.9.2014. The Co-ordinate Bench while dismissing the application had directed the Trial Court to make an endeavour to conclude the hearing

of the trial within nine months from the date of framing of charge. It is informed by the learned counsel for the applicant that the charge in the said Sessions Case No.75/2013 is framed on 13.7.2015. and the period of 9-months has come to an end in June, 2016. The learned counsel on instructions further submitted that after framing of charge there is no progress in the trial.

3) After taking into consideration the evidence available on record prima facie it appears that the applicant assaulted the deceased in the heat of passion preceded by a scuffle between the applicant and the deceased. 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-86/2013 registered with Kasa Police Station culminated in Sessions Case No.75/2013 on his furnishing PR bond of Rs.25,000/- with one or more local sureties to make up the amount.

b) After his release from Jail the applicant shall attend the Kasa Police Station, Dist. Palghar once in a month i.e. on every 1st Monday between 11.00a m. to 2.00 p.m. till the conclusion of the trial.

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) After his release from Jail the applicant shall not enter the jurisdiction of Kasa Police Station except for marking his presence as stated herein above.
- f) Before his release on bail the applicant shall furnish his address to the Kasa Police Station where he intends to reside after his release on bail.
- h) The applicant shall not tamper with the evidence and/or influence the prosecution witnesses.
- i) Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)