

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1551 OF 2016

Surekha Dnyanu Chikhale	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr. Jaydeep D. Mane, Advocate for the applicant.
Mr. S.H. Yadav, APP, for the State.

CORAM: SMT.SADHANA S.JADHAV, J.
DATE : 29th November, 2016.

P.C.

Heard. This is an application under Section 439 of Cr.P.C.
The applicant herein is arrested on 2.4.2016 in Crime No.202 of 2016 registered at Faujdar Chavadi Police Station. The investigation is concluded and charge-sheet is filed.

2. It is the case of the prosecution that on 31.3.2016, ASI of Foujdar Police Station alleging therein that he had received a telephonic information to the effect that a dead body is lying on the Railway Line of Yash Nagar. The police officer went to the spot and saw that there was a dead body of male person. They found a light bill in his pocket which showed the name of the deceased as Datta Shinde. The police officer saw the address on the

bill as Ausevasti, Solapur. He called upon the people from that area and had learnt that he was the son-in-law of Mahadev, who had identified the dead body to be that of Datta Shinde. A.D. No.24 of 2016 was registered. Inquest panchnama and spot panchnama was conducted in A.D. enquiry. In A.D. enquiry, the investigating officer recorded the statement of one Ganesh Yadav who was residing in close proximity of the scene of offence. He had informed the police that on 30.3.2016, when he had been to answer nature's call, he had seen two ladies and one man had set another person on fire and had fled from the said spot. He had also given the description of the persons whom he had seen while they were fleeing from the spot. Initially, it was presumed that the deceased had committed suicide. However, after recording the statement of the eye-witnesses, it was clear that the deceased Datta Shinde had died a homicidal death as Ganesh Yadav had specifically stated that the person who was being set on fire was crying for help. In the course of investigation, it further transpired that Datta Shinde had harassed many women by soliciting sexual favours. The I.O. had recorded the statement of the wife of the deceased who had disclosed that the present applicant happens to be the sister of the deceased Datta Shinde and that he was harassing her younger daughter and soliciting sexual sexual favour from her.

This aspect can be seen as a motive. In the course of investigation, test identification parade was held and Ganesh Yadav had identified the present applicant as one of the women he had seen while fleeing from the scene of offence. Besides the test identification parade, there is no incriminating material against the present applicant which could be converted into legal and admissible evidence. the learned counsel for the applicant submits that besides the present applicant, no one has been arrested in the present case. The applicant is a woman. By virtue of the proviso to Section 437 of Cr.P.C., she will be entitled to be enlarged on bail.

3. The above observations are restricted to an application under Section 439 of Cr.P.C. and shall not be considered for the purpose of quashing of FIR, discharge application or at the time of trial.

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/- with one or more sureties in the like amount.

Application is disposed of.

(SMT. SADHANA S.JADHAV, J.)