

CRIMINAL BAIL APPLICATION NO. 1570 OF 2016

Versus

P.C.:

2 This is an application under section 439 of the Code of
Criminal Procedure, 1973. The applicant herein is arrested on
27/1/2016 in Crime No. 18/2016 registered at Ghodegaon Police
Station. Investigation is completed and the applicant is charge-

sheeted for the offence punishable under section 364, 302, 404 read with section 34 of the Indian Penal Code.

3 It is the case of the prosecution that Sanjay Chinchpure had lodged report at Ghodegaon Police Station on 24/1/2016 that he was out of station for 7 days. His wife informed him that on 23/1/2016 their son Kunal had left the house for going to the college and had not returned home. She had attempted to search for him at all known places. Thereafter they had lodged missing report which was registered as missing complaint No. 1 of 2016. That the dead body of Kunal was found on 27/1/2016 on the outskirts of village Fulwade in the forest area. In the course of investigation, it was revealed that Kunal was driving the motor cycle owned by his father registered as MH 14 CZ 8496.

4 In the course of investigation, police had recorded the statement of one Ganesh Vaddare working at the petrol pump owned by Jaysing B. Kale. Police had seen the cctv footage of the

said petrol pump. Ganesh had disclosed to the police that on 23/1/2016 3 boys had come on motorcycle. The boy driving the motor cycle had asked for the petrol to the tune of Rs. 50 and he had also taken receipt. The receipt of the said petrol pump was found at the time of inquest panchanama and was seized from the pocket of the deceased. The witness after seeing the CCTV footage identified the present applicant and had also informed the police that the said boy was driving the motorcycle at the relevant time.

5 Learned Counsel for the applicant submits that the case rests upon circumstantial evidence and that the images captured in the CCTV footage are not part and parcel of the charge-sheet and therefore, the applicant deserve to be enlarged on bail. It is vehemently argued that the motive attributed by the prosecution is not sufficient to deny bail to the present applicant.

6 According to the prosecution, girl friend of deceased Kunal had allegedly abused the applicant and his friend. Some of the

statements show that she had in fact abused one person namely Kunal. In the course of investigation, the investigating officer had also recorded statement of Shubham Tekwade on 25/1/2016. He had disclosed to the police that on 23/1/2016 after he had appeared for the examination, he had met the deceased Kunal Chinchpure. He had informed Kunal that he is going to house. He left company of one Aniket Dhera. According to him, Kunal had once again approached them and informed that Rutuja had called them and therefore, they had gone to New India Hotel. They had met Rutuja and Pallavi. There they had a talk with the girls. He had further disclosed that Kunal had asked Rutuja about her cell phone. Shubham Tekwade has further disclosed that Kunal had left in the company of one Papu. The police was in all probabilities assured that Shubham had made every effort to mislead the investigating agency and subsequently Shubham was arrested and shown as an accused in the present case. On 28/1/2016 the statement of Shubham was once again recorded and at that time, he had disclosed that the present applicant had told Kunal that

they shall go for drive and that their girl friend would arrive at ST stand and thereafter, they had taken him at forest area. They had taken photos of each other and thereafter, the present applicant had assaulted Kunal.

7 The cellphones are seized. CDR records would also indicate that Kunal was in the company of the present applicant and co-accused at the time of incident and allegation would clearly establish the same. The co-accused is juvenile inflict with law and therefore was enlarged on bail. The deceased was also hardly 18 years old. The act committed by the present applicant was premeditated. It is heinous offence in which a young boy has lost his life over some dispute amongst peers. Hence, the applicant does not deserve for bail.

8 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.

9 The application being sans merits stands rejected and disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)