

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

CRIMINAL BAIL APPLICATION NO. 1671 OF 2016

Ganesh Popat Dhengade.	... Applicant.
Versus	
The State of Maharashtra.	... Respondent.

Mr. M.N. Sandhyanshiv i/b. Mr. Vikas B. Shivarkar, advocate for Applicant.

Mr. S.S. Pednekar, APP for State.

**CORAM : SMT. SADHANA S. JADHAV,J
DATE : SEPTEMBER 27, 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 20/8/2016 in Crime No. 118/15 registered at Yeola Taluka Police Station for

offence punishable under Section 302, 324, 325 of the Indian Penal Code. Investigation is completed and charge-sheet is filed.

3 It is the case of the prosecution that on 20/6/2015 the complainant lodged a report at the police station alleging therein that on 19/6/2015 he alongwith his friend Anirudha Shinde and Raju had been for dinner to hotel Arpita. There was a dispute between the owner of the hotel Ganesh Dhengade, as he has slapped Raju. The informant alongwith his two friends had left the hotel and had proceeded on the motor cycle. That the owner of the hotel namely, Ganesh Dhengade i.e. the present applicant had followed them and had dashed the motor cycle twice. That Anirudha had fallen from the motor cycle. At that time, the applicant is alleged to have dashed the motor cycle once again. It is alleged that the complainant had realised that Anirudha Shinde had sustained grievous injuries. He was almost dead. It is alleged that the applicant had alighted from his car and had picked up the deceased and thrown him by the side of the road as the friends of the deceased had fled from the spot.

4 It appears from the papers of investigation that some passer by had telephonically informed the police that a person is seriously injured in road accident and lying in abandoned condition by the side of the road. The information was received at about 7.45 a.m. There was enquiry in respect of the same. The dead body of Anirudha Shinde was taken for post mortem. He has sustained injuries all over his body. The first informant had informed the parents about the same. Thereafter, the first information report was lodged.

5 Perused the papers of investigation. The column no. 5 of post mortem notes indicates that inquest panchanama was conducted on 20/6/2015 between 8.20 a.m. to 8.50 a.m. in A.D. No. 29 of 2015. Panchas had opined that in all probabilities the person had died in a road accident. The same impression was carried in the post mortem notes. The post mortem notes further indicates that the deceased had consumed alcohol. Needless to say that the FIR is lodged by the eye witness on the next day. Rigour mortus has well developed. It is not

known as to whether information was given to parents immediately. In all probabilities, the first informant was scared and maintained silence till morning. It is not the case of the prosecution that the applicant was armed with deadly weapon and had followed the deceased with an intention to cause homicidal death.

6 Taking into consideration the nature of allegations and the fact that the charge-sheet is filed, the applicant deserves to be enlarged on bail, since he is in custody for almost one year.

7 The observations made herein 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.

8 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. 50,000/- and one or two sureties in the like amount.
- (iii) The applicant shall report to the concerned police station as and when called and cooperate with the investigating agency to the best of his capacity.
- (iv) The applicant shall not tamper with the evidence.

9 The applications are disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)