

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

CRIMINAL BAIL APPLICATION NO. 1702 OF 2016

Uttam Tukaram Dhiwande.	... Applicant.
Versus	
The State of Maharashtra.	... Respondent

Mr. Kuldeep S. Patil, advocate for applicant.

Mr. Aniket U. Nikam, advocate for original complainant.

Mr. R.M. Pethe, APP for State.

**CORAM : SMT. SADHANA S. JADHAV, J
DATE : NOVEMBER 28, 2016.**

P.C.

Heard the learned Counsel for the applicant, the learned APP for State and learned Counsel for intervenor.

2 This is an application under section 439 of the Code of Criminal Procedure, 1973. The applicant herein is arrested on 27/11/2015 in

Crime No. 200 of 2015 registered at Dindori Police Station, Dist. Nashik. The investigation is completed and charge-sheet is filed on 24/12/2016.

3 It is the case of the prosecution that on 27/11/2015 Vasant Bejekar lodged a report at the police station alleging therein that on 27/11/2015 the officers of the Revenue Department had visited the agricultural land in respect of which there was a dispute over the way. That after the officers of the Revenue Department had left, the present applicant alongwith others had been to the house of the complainant and had assaulted the complainant and his family members with fist and kick blows. It is specifically alleged that while leaving the house, the present applicant had threatened the complainant of dire consequences in the eventuality that he reports the matter to the police station. On the same day in the afternoon at about 2.30 p.m. the complainant and others had left on their respective motor cycle to go to

the police station to lodge the report in respect of the incident, which had taken place in the morning. It is alleged that the present applicant had followed them in his pick up van and on the way had given dash to the motor cycles. That the complainant had fallen down and had sustained certain injuries. He had then given dash to another motor cycles. The impact of the dash was such that both the motor cyclists had fallen on the ground and had died an instantaneous death. The names of the deceased are Balkrishna Kashid and Sampat Nana Gangurde. The complainant happens to be an eye witness.

4 Upon perusal of the post mortem notes, it is clear that the cause of death was due to “Haemorrhagic Shock due to Polytrauma.”

5 The learned Counsel for the applicant submits that in fact, the applicant was approaching the police station and the persons belonging to the group of the complainant had followed them on their motor

cycles and had attempted to intercept them in order to restrain them from lodging report. This could be a defence. However, as on today, there is direct evidence to indicate that the present applicant had followed the complainant group and had dashed the motor cyclists, due to which two persons had died on the spot. It is a matter of record that the dispute was pending before the Tahasildar between the present applicant and Gangubai Bejekar, who happens to be mother of the first informant. The dispute was between the present applicant, co-accused and the party of the complainant.

6 Be that as it may, taking into consideration the fact that there is direct evidence against the present applicant and it is revealed that the applicant had given dash to the motor cycle with intention to cause such hurt that it would result into a death, the applicant does not deserve to be enlarged on bail.

7 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.

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

(SMT. SADHANA S. JADHAV, J)