

Dond

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1796 OF 2016

Vishwanath alias Bala Janardan Hulawale (Patil) ..Applicant.

Vs.

The State of Maharashtra ..Respondent

Mr. V.V. Purwant for Applicant.
Mr. Deepak Thakare, APP for State.

CORAM: A.S. GADKARI, J.

DATE : 29th September 2016.

P.C.

1 This is an application under Section 439 of Cr. P.C. for bail in CR No.I-04 of 2016 registered with Bhiwandi Taluka Police Station, Bhiwandi, Thane (Rural) dated 9.1.2016 under Section 302 of the Indian Penal Code.

2 It is the prosecution case that the applicant was having enmity with the family of the informant, Mr. Dayanand Patil. That on 9.1.2016 at about 5.45 p.m., the applicant gave dash of his car to Master Devang, the

son of the informant who was aged about 15 months and was playing in the precincts of his house adjoining to the village road. That Master Devang suffered injury to his head and succumbed to the said injury while undergoing treatment in the hospital. After lodgment of the first information report by the informant, police conducted investigation and after completion of investigation have submitted chargesheet in the Court of competent jurisdiction.

3 Heard the learned counsel for the applicant, the learned APP and also perused the statements of the witnesses which are annexed to the chargesheet.

4 The learned counsel for the applicant submitted that the eye-witness namely Smt. Jayavantibai G. Mali in her statement has stated that the daughter of the applicant namely Miss. Baidu was with him in the car. The statement of the said Miss. Baidu is not recorded by the Police. He submitted that it is improbable that the applicant will take his own daughter in the said car to be a witness to the alleged crime. That as a matter of fact, no intention can be attributed to the applicant in the present crime in view of the statement of various witnesses. That the applicant was initially driving his car in reverse mode and subsequently drove it forward and at that time the applicant missed the sight of the said victim and therefore the

untoward incident occurred resulting into the lodgment of the present crime.

4 Prima facie it appears that there is substance in the submission made by the learned counsel for the applicant. Though there was enmity between the family of the applicant and family of the informant for last 15 years, it is difficult to accept that due the said enmity the applicant has committed the present crime. The applicant is arrested on 12.1.2016 and since then he is in jail. In view of the same and in view of peculiar facts and circumstances of the present case, the applicant has made out a case for his release on bail.

5 Hence, the following Order:

- (i) The applicant be released on bail in CR No.I-04 of 2016 registered with Bhiwandi Taluka Police Station, Bhiwandi, Thane (Rural) on his furnishing PR bond of Rs.50,000/- with one or two solvent local sureties in the like amount.
- (ii) After his release from the jail, the applicant shall attend the Bhiwandi Taluka Police Station once in month i.e. on every 1st Monday of the said month between 11.00 a.m. to 2.00 p.m.
- (iii) The applicant shall also attend all the dates before the

Trial Court.

(iv) Any two consecutive defaults in complying with the aforesaid conditions, shall attract the provisions of cancellation of bail.

(v) The applicant shall not tamper with evidence and/or influence the prosecution witnesses.

6 The Application is allowed in the aforesaid terms.

(A.S. GADKARI,J.)