

abrasions on his body, more particularly on his cheek and near his eyes. Post-mortem was conducted on the dead body of Nadeem. Medical opinion as far as the probable cause of death is concerned was “constriction around neck”. Police were *prima facie* of the opinion that it was a case of homicidal death. The report was signed on 28 March, 2016. The police were of the opinion that the applicant had misled the police and thereafter on 29 March, 2016, Dilip Salunkhe, on behalf of the State lodged the report at the police station alleging therein that there was a quarrel between the siblings and the present applicant, that the deceased Nadeem has uprooted hairs of his sister and was also assaulting them. The applicant had intervened and in the said altercation, son of the applicant had died.

2 It is a matter of record that Nadeem was taking treatment at Aastha Hospital, Psychiatric Nursing Home & Deaddiction Centre, Chinchwad Station, Pune. The history as seen in the case papers would show that he had aggressive behavior, violence directed towards relatives, history of antisocial traits, history of suicidal threatenings, involved in legal cases. It appears that the deceased Nadeem was being given treatment by his father, but he had made life miserable for relatives. The papers of investigation would reveal, on the day of incident in fact there was a quarrel in the house. Nadeem was abusing his mother and his two sisters. He had violently beaten his sisters. The wife of the applicant had attempted to intervene. There was a scuffle and in the said scuffle, Nadeem had died due

to “constriction around neck”. Soon after the incident, he had called upon his wife and just exclaimed (“see what has happened”). Learned APP submits that this would be an “extra-judicial confession” of the applicant soon after the incident.

3 Learned advocate for the applicant submits that the expression was to show that “what has happened” and not “what he has done”. The applicant had no intention to cause homicidal death of his son. It had happened at the spur of moment without any pre-meditation. It is, in these circumstances, that the applicant deserves to be enlarged on bail. The observations are restricted to the application under Section 439 of the Code of Criminal Procedure and shall not be taken into consideration for the purpose of quashing the F.I.R., discharge application or at the time of trial. Hence, the order.

ORDER

- 1 The application is allowed;
- 2 The applicant be enlarged on bail on furnishing his P.R. Bond in the sum of Rs.25,000/- with one or more solvent local sureties;
- 3 The application is disposed of accordingly.

(SMT SADHANA S.JADHAV, J.)