

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2002 OF 2016

Suraj Maruti Kamble

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Satyajeet Rajeshirke Advocate for Applicant.

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

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 1st DECEMBER, 2016.

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is arrested on 11/01/2016 in crime no. 258 of 2015 registered at Islampur Police Station for offence punishable under section 302 r/w 34 of the Indian Penal Code.

2) It is the case of the prosecution that on 11/12/2015, Dattatraya Mandale received an information that his step-brother Suresh Mandale was killed and thrown near sugarcane crop. He went to the spot, saw the dead body. It was a case of homicidal death. Hence, he lodged a report at the police station on the basis of which crime no. 258 of 2015 is registered against unknown persons.

ism

In the course of investigation, Ravindra Khot & Abhijit Kamble were arrested. Applicant was arrested and taken to liquor shop on 15/01/2016. At the liquor shop, one Vijay Kundale was consuming alcohol. That according to the prosecution, statement of the applicant was recorded in the presence of one Vijay Kundale. It is alleged that the applicant had disclosed in the presence of Vijay Kundale that some days ago i.e. in December 2015, he was consuming liquor along with his friends Ravindra Khot and Abhijit Kamble (Accused nos. 1 & 3). At that time, they saw another person who had come to purchase alcohol and that he was Suresh Mandale. When Suresh Mandale was departing, applicant and his friends had followed him and tried to rob him. He resisted. There was a scuffle and at that time, Ravindra Khot had assaulted him with a knife. It is alleged that the applicant had led the police to the spot where they had abandoned the dead body of the deceased Suresh Mandale. Besides the said statement, there is no material which can be converted into legal and admissible evidence. The said statement was also recorded by the police in the presence of Vijay Kundale.

3) The learned counsel for the applicant rightly submits that there is no material besides this which would even remotely indicate that present

applicant has caused the homicidal death of Suresh Mandale.

4) Be that as it may, considering the papers of investigation, material against the applicant and the submissions advanced across the bar, this court is of the opinion that since there is no incriminating material which can be converted into admissible and legal evidence at the time of trial, applicant deserves to be enlarged on bail. However, it is made clear that observations made herein above are restricted to an application under section 439 of the Code of Criminal Procedure, 1973 and shall not be considered for quashing of F.I.R., discharge application or at the time of trial.

ORDER

- (i) Application is allowed.
- (ii) Applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs. 25,000/- with one or more solvent sureties in the like amount.
- (iii) Applicant shall report to Islampur Police Station on first Sunday of each month till the framing of the charge.
- (iv) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)