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

CRIMINAL BAIL APPLICATION NO.2025 OF 2016

Mangesh Ramdas Kadam

...Applicant

vs

The State of Maharashtra

...Respondent

.....

Mr Sachin Chandan i/b Mr Suresh Dubey for the Applicant

Ms Veera Shinde, APP for the Respondent/State.

.....

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

P.C. :

Heard. This is an application under Section 439 of the Code of Criminal Procedure, 1973. The applicant is arrested on 25 July, 2016 in Crime Registration No. 109 of 2015 registered at Ranjangaon Police Station for the offences punishable under Sections 302, 201, 363, 364, 368, 504, 506, 143, 148, 149, 120(b) of the Indian Penal Code. The investigation is completed and charge-sheet is filed.

2 The present applicant is shown as original accused No.4 in the said crime. It is the case of the prosecution that Vijay Jadhav lodged a report at the police station alleging therein that he happens to be the brother-in-law of Bapu Datta Bansode; that Bapu Bansode was the accused in several cases; that when he was in jail he has met another seasoned accused persons. He had borrowed money from several peoples and has

not returned it, and therefore, many peoples have grudge against him. It is alleged that on 15.7.2015, Bapu Bansode had left the house along with Younus and Naim Usman Shaikh in Innova car to recover money from one of his relative Pappu Jadhav. That the first informant had also travelled along with Bapu Bansode. They have haulted at Hotel Lavasa for having dinner. At about 9.00 p.m. when Bapu Bansode had gone to answer natures call, the first informant realized that four unknown persons had abducted Bapu and had taken him in a taxi. They had threatened the first informant. On the basis of the report, initially Crime No. 109 of 2015 was registered against unknown persons for the offences punishable under Sections 363, 504, 506 r/w 34 of the Indian Penal Code. Subsequently, Bapu Bansode was reported to have died homicidal death and hence Section 302 of the Indian Penal Code was added. It appears from the record / papers of investigation that the brother of the applicant happened to be a driver.

3 Upon perusal of papers of investigation it appears that on 31 July, 2015 the statement of brother of the applicant was recorded. He disclosed that he is working as a driver on the car of Vishal Adagale. That on 10 July, 2015 his mother had made with an accident and she was admitted in Dhanashri Hospital at Pune. The car was with him. On 15 July, 2015 at about 5.30 p.m. Sunil Lakade, Ananda Danane and Sushil Gaikwad had been to his house and had requested him to give car as they wanted to go to Ranjangaon. They had specifically

stated that they were going for recovering the amount from some persons. They had hired the said car, but since Umesh wanted to remain with his brother he had asked his brother i.e. the present applicant to go as a driver. The applicant was not very good driver and hence Ajay Thorat had accompanied them. The applicant was driving the said car. On the same day, late in the night, the applicant had brought the car home and had left the car.

4 It appears that the applicant had not disclosed anything to his brother. The papers of investigation would indicate that the applicant was driving the car in which Bapu Bansode was abducted. They brought Bapu Bansode at the house of Sunil Lakade on his request and thereafter the applicant had returned home. It, therefore, appears that the applicant could at the most be prosecuted for the offence punishable under Section 201 of the Indian Penal Code as there is no material on record to show that he had any knowledge that the accused were to cause homicidal death of Bapu Bansode. It is true that he had drive the car on the instructions of Sunil Lakade but had returned home on the same night. There is no criminal antecedents against the applicant. Taking into consideration the papers of investigation, the role attributed to the present applicant and the submissions advanced across the bar, this Court is of the opinion that the applicant is to be enlarged on bail. It is made clear that 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 in the like amount;
- 3 The applicant shall report to Ranjangaon MIDC Police Station on first and third Sunday of each month commencing from 4 December, 2016, till framing of the charge;
- 4 The application is disposed of accordingly.

(SMT SADHANA S.JADHAV, J.)