

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

BAIL APPLICATION NO.2241 OF 2015

Sachin Ambadas Khot

...Applicant

Versus

The State of Maharashtra

...Respondent

.....

Mr. Satyavrat Joshi for the Applicant.

Ms R.M. Gadhvi, APP for the Respondent -State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : 18th JANUARY, 2016.

P. C. :

This is an application for bail filed by the aforesaid Applicant, who is arrested in Crime No.399 of 2014 registered at Loni Kalbhor Police Station, Pune, for offence punishable under section 302 of the IPC.

2. At the outset the learned counsel for the Applicant seeks leave to amend the cause title so as to correct the name of the Police station. Leave is granted. Amendment to be carried out forthwith.

3. The case of the prosecution in brief is that on 29.10.2014 at about 12.00 to 12.30 p.m. the Applicant herein committed murder of his father Ambadas Khot.

4. Mr. Satyavrat Joshi, the learned counsel for the Applicant has submitted that the FIR was lodged by Police Naik on the basis of the statement made by the Applicant. The confessional statement, which is inculpatory in nature is not admissible in evidence. The prosecution has also relied upon the extra judicial confession made by the accused to his wife. Relying upon the judgment of Division Bench of this Court, in **Vilas Raghunath Kurhade V/s. The State of Maharashtra in Criminal Appeal No.152 of 2002**, Mr. Satyavrat Joshi, the learned counsel for the Applicant has submitted that in view of the provisions of section 122 of the Indian Evidence Act, the extra judicial confession is not admissible. He further submitted that the Applicant had no intention of causing or committing murder of his father. This is evident from the fact that the Applicant had himself gone to the police station and reported the said incident. Furthermore, the Applicant had not carried any weapon with him but had allegedly used the weapon, which was lying at the place of the incident.

5. Ms Gadhvi, the learned APP for the Respondent -State has submitted that the Applicant had himself intimated to the police that he had committed murder of his father. Weapon of offence was recovered from the place of the incident. Further the injuries described

in the post mortem report could be caused by the weapon, which was recovered from the place of the incident.

6. I have perused the records and considered the submissions advanced by Mr. Satyavrat Joshi, the learned counsel for the Applicant and Ms Gadhvi, the learned APP for the Respondent -State. The records prima facie reveal that the Applicant herein is the son of the deceased Ambadas Khot. The statement of the wife of the Applicant prima facie reveals that on 29.10.2014 the deceased had gone to the sugarcane field. The deceased had not carried his food, hence the wife of the Applicant had sent him to the field with food to the deceased. The FIR lodged by Police Naik, prima facie reveals that on 29.10.2014 at 2.00 p.m. the Applicant had come to the police station and reported that he had committed murder of his father. The part of the inculpatory statement is not admissible. Similarly, the confession made by the Applicant to his wife is also not admissible in view of the provisions of section 122 of the Evidence Act. Apart from the confessional statement made by the Applicant to the Police Naik and the extra judicial confession made by the Applicant to his wife, there is no prima facie material to show the involvement of the Applicant in the said crime.

7. Be that as it may, the records prima facie reveal that the deceased had outraged modesty of the wife of the Applicant. The records reveal that the Applicant had not gone to the place of the incident with an intention of committing murder but had gone with lunch for the deceased. The incident was not premeditated and had occurred at the spur of the moment as the deceased, father of the Applicant had made some objectionable statement about the wife of the Applicant, which had angered the Applicant. The Applicant had not carried any weapon with him but had used a sickle, which was lying at the place of the incident and the Applicant had also thereafter proceeded to the police station and reported the above incident.

8. The above facts and circumstances coupled with the facts that the Applicant is in custody since 29.10.2014 and the Charge sheet has already been filed, and the case is committed to the Sessions Court, Pune, would not justify further detention.

9. Under the circumstances and in view of discussion supra, the application is allowed on the following terms and conditions:-

- (i) The Applicant is ordered to be released on bail on furnishing bail bond of Rs.50,000/- (Rupees Fifty

Thousand only) with one or two sureties to the like amount to the satisfaction of the Sessions Court, Pune.

- (ii) The Applicant shall not leave Pune-District without prior permission of the Sessions Court, Pune.

(ANUJA PRABHUDESSAI, J.)