

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2276 OF 2016

Mr. Subhash Ramesh Kengar	...	Applicant
	Vs.	(Oreig. Accused No.2)
The State of Maharashtra	...	Respondent

Mr.Pravin Dabade i/b. Mr. Vikas B. Shivarkar, Advocate for the applicant.
Mr. S.S.Pednekar, APP, for the State.

CORAM: SMT.SADHANA S.JADHAV, J.
DATE : 18th November, 2016.

P.C.

Heard. This is an application under Section 439 of Cr.P.C. The applicant herein is arrested on 27.5.2016 in Crime No.108 of 2016 registered at Mundhawa Police Station, Pune, for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code. The investigation is completed and charge-sheet is filed.

2. It is the case of the prosecution that on 27.5.2016, Mrs. Rama Atole wife of Vilas lodged a report at the police station alleging therein that she is the mother of Suraj @ Bablu. On 26.5.2016, after all the family members had retired for sleep, the cellphone of her son was buzzing. That Suraj was in deep sleep. He did not receive the phone. The caller had continued to call. She had finally received the phone. The caller had

disclosed his name as Prakash. She had told him that Suraj was in deep sleep. However, the caller insisted upon her to wake him up. It appeared that Suraj was avoiding to receive the call. The phone was disconnected. Upon enquiry by the first informant, her son Suraj had disclosed to her that Prakash was insisting upon him to come with two-wheeler Scooty and did not wish to go. After some time, Prakash Bhosale and Subhash Kengar i.e. the present applicant came to the house. Suraj met them. He saw Suraj talking to Prakash and Subhash and thereafter Suraj had accompanied both of them on the motor-cycle. She has given the registration number of the motor-cycle as MH-12-HW-1428 which belonged to the father of the applicant. The first informant waited for her to return home. On the next day in the morning, one Gaikwad accompanied by the police personnel came to her house and informed them that a dead boy was lying near Renuka Mata Temple. She went to the spot and identified the dead body as that of her son Suraj. On the basis of her report, Crime No.108 of 2016 is registered at Mundhawa Police Station, Pune, for the offence punishable under Section 302 read with Section 34 of IPC.

3. In the course of investigation, I.O. had recorded the statement of an eye-witness - Ishwar Tikone, who has disclosed to the police that he was working as a watchman at Keshav Nagar. On 26.5.2016 at about 11

p.m., when he was passing by the road, he saw Suraj along with the present applicant and Prakash. Since Suraj was residing in the same area, he knew Suraj. After some time, when he was chit-chatting his friends he had seen that there was a quarrel between Suraj and the other two boys and they were assaulting him with beer bottles and stones. Initially, he thought it was a regular quarrel, but subsequently, he noticed the dead body of Suraj lying in the said area. The post-mortem notes would make it amply clear that it is a case of homicidal death and that Suraj was brutally assaulted by the applicant and the co-accused Prakash. Column 17 indicates that there are as many as 24 injuries present on the deceased. The head was smashed. The cause of death was due to crush injury to head with blunt trauma to chest and abdomen. There is evidence of last seen together. In these circumstances, the applicant does not deserve to be enlarged on bail.

4. The application being sans merits stands rejected.

5. It is made clear that the observations made hereinabove are restricted to an application under Section 439 of Cr.P.C. The learned Sessions Judge shall not be influenced by the same at the time of trial.

(SMT. SADHANA S.JADHAV, J.)