

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

CRIMINAL BAIL APPLICATION NO. 247 OF 2016

Shivprasad Rammanohar Pandey
@ Shastri.

... Applicant.

Versus

The State of Maharashtra.

... Respondent.

Mr. Prabha Badadare i/b. Mr. P.R. Arjunwadkar, advocate for
Applicant.

Ms. P.P. Shinde, APP for State.

CORAM : SMT. SADHANA S. JADHAV, J

DATE : JANUARY 12, 2017

P.C.:

1 Heard the learned Counsel for the applicant and the learned
APP for State. Perused the papers.

2 This is an application under section 439 of the Code of Criminal
Procedure, 1973. The applicant herein is arrested on 4/6/2015 in
Crime No. 548 of 2015 registered at Mahatma Phule Chowk Police
Station, Thane. The investigation is completed and charge-sheet is

filed against the accused for offence punishable under section 302, 201, 323 read with Section 34 of the Indian Penal Code.

3 It is the case of the prosecution that on 4/6/2015 Guddu Mohd. Umar Khan lodged a report at the police station that he alongwith Laxman Bhandari were in a habit of stealing iron scrap from NRC Company. On 3/6/2015 at about 2.30 p.m. first informant alongwith Laxman was consuming alcohol. At that relevant time, they decided to commit robbery in NRC Company. They were attempting to jump over the wall of NRC Company. The applicant who happens to be a watchman of the said company had apprehended Laxman and the first informant. They were brutally assaulted by iron pipes by the applicant and his associate. The first informant had rescued himself by jumping over the wall, and was peeping, through the broken wall. The first informant saw that a white colour Tata Sumo had come to the spot and Laxman was thrown in the said car. Then the car had proceeded further. On the next day, Guddu had enquired with wife

of Laxman. She had disclosed that he had not returned home. At the same time, they received a message that an unidentified dead body of male is lying on the railway track. The first informant soon realised that it was his friend Laxman who was brutally assaulted by the watchmen Shivprasad Pandey and Amar Desle and they have thrown the dead body on the track only to create a scene that it was an accidental death or suicidal death of Laxman.

4 Perused the post-mortem notes. The injuries mentioned in Column No. 17 would clearly indicate that it was neither accidental death nor suicidal death and that Laxman has been brutally assaulted and thrown on the track. There is direct evidence against the applicant. The first informant happens to be eye witness and at this stage, there is no reason to disbelieve the first informant, especially when the papers of investigation would show that there is sufficient material to corroborate the allegation levelled by the first informant.

5 The learned APP submits that although it is true that the deceased had entered the premises to commit theft, it was duty of the watchman to hand him over to the police. According to the learned APP, the applicant has taken law in his own hand and has deprived the deceased of his life.

6 In view of the above observations, the applicant does not deserves to be enlarged on bail.

7 These observations are restricted to the application under section 439 of the Code of Criminal Procedure, 1973 and shall not be considered at the time of trial.

8 The application being sans merits stands rejected and disposed of accordingly.

(SMT. SADHANA S. JADHAV, J)