

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
**CRIMINAL BAIL APPLICATION NO. 749 OF 2017**

|                        |     |            |
|------------------------|-----|------------|
| Akash Gurudas Umbarkar | ... | Applicant  |
| Vs.                    |     |            |
| State of Maharashtra   | ... | Respondent |

Mr. Harshad Bhadbhade i/b. Mr. R.V. Katore, for the applicant.  
Mrs. S.S. Kaushik, APP, for the State.

**CORAM: SMT. SADHANA S. JADHAV, J.**  
**DATE : 8th AUGUST, 2017.**

**P.C.**

Heard. This is a subsequent application under Section 439 of Cr.P.C.

2. This Court by order dated 15.10.2016 had rejected the application filed by the present applicant. At that stage, this Court had taken the submission of the learned APP that there was an admission by accused Dhiraj that he along with his friend Ajay Rathod had caused the death of Prathamesh by strangulation. The learned APP had further submitted that there was recovery of blood stained clothes at the instance of the present applicant. This Court has specifically noted that the deceased had not sustained any bleeding injury. The post-mortem notes also indicate that the cause of death was strangulation. It was noted by this Court that the statement of the co-accused was not recorded under Section 164 of

Cr.P.C. as the same would be admissible in evidence at the time of trial under Section 30 of the Indian Evidence Act.

3. The present application has been filed seeking enlargement on bail on ground of parity as the co-accused against whom similar allegations are levelled have been enlarged on bail.

4. The learned counsel for the applicant submits that in the memorandum of statement, under Section 27 of the Indian Evidence Act, the accused Dhiraj had specifically disclosed that he along with Ajay had caused the homicidal death of deceased Prathamesh. The learned counsel for the applicant submitted that Ajay has been enlarged on bail by this Court (Coram: Smt. Revati Mohite Dere vide order dated 18.4.2017. Hence, the learned counsel for the applicant submits that by virtue of doctrine of parity, the applicant also deserves to be enlarged on bail.

5. It is a matter of record that the applicant had led to the recovery of a car which belonged to the relative of the applicant and had disclosed in the Memorandum that the dead body was taken to the river in the said car. The memorandum of accused Dhiraj would show that the dead body was taken on a motor-cycle. At this stage, it would not be appropriate to arrive at a conclusion as to whether the present applicant has committed an offence under Section 201 of the IPC.

6. However, taking into consideration the fact that the co-accused against whom similar allegations are levelled, have been enlarged on bail. The applicant also deserves to be enlarged on bail.

7. It is made clear that the co-accused Dhiraj Kudale would not claim parity with the present applicant. In the eventuality that he files an application under Section 439 of Cr.P.C., the same may be considered on its own merits without referring to the reasons assigned in the orders granting bail to the applicant.

### **ORDER**

- (i) The application is allowed.
- (ii) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.50,000/- with one or more sureties in the like amount.
- (iii) The applicant shall report to the concerned police station on every alternative Sunday between 10 a.m. to 12 noon till the framing of charge.

The application stands disposed of.

**[SMT. SADHANA S.JADHAV, J.]**