

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.1203 OF 2016**

Rajesh Vitthal Ballal

... Applicant

Vs.

The State of Maharashtra

.. Respondent

Mr.A.U. Nikam for the Applicant

Mr.Rajan Salvi, APP, for Respondent – State

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: JANUARY 31, 2017**

P.C. :

1. The Application is moved for bail under section 439 of the Code of Criminal Procedure by the applicant/accused, who is facing charges under sections 302, 120B r/w section 34 of the Indian Penal Code in C.R. No.129 of 2015 registered with Gangapur Police Station, Nashik.

2. One Shonet Jagtap, the nephew of the deceased Varsha Deshmukh, gave information to the police. Varsha Deshmukh had lost her husband on 7.12.2013. She was working in a Bank. The brother-in-law of Varsha i.e., accused No.1 Suresh Sahebrao Deshmukh wanted the property in the name of husband of Varsha Deshmukh. However, she refused to transfer the property to him

and, therefore, Suresh Deshmukh hired accused No.2 Arjun Bhalerao, Prakash Bhalerao and the present applicant-accused to eliminate Varsha Deshmukh. Thus, on 8.7.2015, in the morning, the present applicant/accused alongwith Arjun and Prakash went outside the bank where Varsha Deshmukh was employed. Arjun identified the lady and Prakash went inside the bank and he inflicted multiple blows with a chopper on Varsha Deshmukh. Varsha Deshmukh was treated in the hospital on the same day, however, she succumbed to the injuries. Prior thereto, she made a dying declaration to the medical officer that her brother in law had hired the killers as there was dispute in respect of money kept in Fixed Deposits. Pursuant to this, the offence was registered on 8.7.2015 against Suresh Deshmukh, Arjun Bhalerao, Prakash Bhalerao and the present applicant-accused. The applicant-accused was arrested on 10.7.2015. Since then, he is in the prison and hence, this Bail Application.

3. The learned Counsel for the applicant/accused has submitted that there is no evidence against the applicant-accused except the statement of the co-accused Arjun that he alongwith Prakash and the applicant-accused went near the bank. As per

the statement, the applicant/accused was riding the motor cycle and Arjun and Pakash went to the bank on that motor cycle. It is the case of the prosecution that the applicant-accused waited outside the bank till Prakash went inside, stabbed the deceased and came out and thereafter he went away with him. The learned Counsel further submitted that besides this, there is no evidence against the applicant-accused.

4. Learned Prosecutor has confirmed the submission of the learned Counsel for the applicant-accused that besides the statement made by the co-accused in panchanama drawn under section 27 of the Evidence Act, there is no evidence against the applicant.

5. Perused the FIR and the papers. Considered the submissions of the learned Counsel and the learned Prosecutor. The panchanama drawn under section 27 involving the applicant/accused is inculpatory and hence, not admissible. Thus, the prosecution is not in a position to point out the evidence against the applicant-accused. Hence, the Bail Application is granted on the following terms:

- a) Bail Application is allowed.
- b) The applicant-accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.40,000/- (Rupees Forty thousand only) with one or two solvent sureties in the like amount;
- c) The applicant-accused shall not tamper with the evidence or pressurise the complainant or the witnesses;
- d) The applicant-accused shall not indulge into any criminal activity and shall attend on all the Court dates;
- e) The applicant-accused shall not abscond or leave India without prior permission of the Court and furnish his permanent address to the Investigating Officer alongwith documentary proof of his address.
- f) In the event of breach of any of the above conditions, the prosecution will be at liberty to move the Court for cancellation of bail.

6. Bail Application is disposed of on the above terms.

(MRIDULA BHATKAR, J.)