

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1461 OF 2016

Ankit Chandrashekar Pandey	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr.Muzzafar M. Baig,Advocate for the applicant.

Mr.Arfan Sait,APP, for the State.

Mr. M.B.Kature, PSI, Naroli Police Station present.

CORAM: SMT.SADHANA S.JADHAV, J.
DATE : 7th March, 2017.

P.C.

Heard. This is an application under Section 439 of Cr.P.C.
The applicant herein is arrested on 15.2.2016 in Crime No.18 of 2016 registered at Naroli Police Station. The investigation is completed and charge-sheet is filed against the applicant for the offences punishable under Sections 302, 201 read with Section 34 of the Indian Penal Code.

2. It is the case of the prosecution that on 13.1.2016 the dead body of an unidentified person was seen just behind hotel Monica, Walgaon, Bhiwandi. Near the dead body the bottles of Roy and Kingfisher were found. The police had suspected that the dead person must have consumed the alcohol from the adjacent hotel. Upon enquiry, the owner and waiter of the hotel had informed the police that on the previous night the deceased person was

in the company of two other persons and they had consumed alcohol. Their images were captured on CCTV. The waiter and the owner had identified the dead body. On the report of the Police Patil, Crime No.18 of 2016 was registered.

3. In the course of investigation, it had transpired that the sister of the present applicant i.e. Kajal was in love with the deceased. Rahul Shivabaran Singh. The police had recorded the statement of Ms. Kajal on 16.4.2016. She had disclosed to the police that she was in love with Rahnul for almost 2 years. She was sure that her family would not approve of marriage between Rahul and herself and therefore, she had postponed to accept his proposal for marriage. Being aggrieved and annoyed with her, the applicant had posted their photographs on social media. Her family members had learnt about love relationship. She was scolded and threatened of dire consequences by her family members, more particularly her brothers. Deceased Rahul insisted upon his marriage to her. they had parted their ways six months prior to the incident. She had categorically stated that her cousin Anuj had hatched a plan to eliminate Rahul. He had called upon the present applicant and Rahul to Bhiwandi. That she had been to the house of Rahul to enquire and had learnt that he had been to Vapi. It is only when Bhiwandi police reached her house to enquire about

Anuj and the present applicant, she had learnt that Rahul has been eliminated.

4. The police has also recorded the statement of brother-in-law of deceased Sandipkumar Bahadursigh resident of Vapi. He had disclosed that Rahul was staying with him and was in search of a job. That he had given his cellphone to Rahul. That on 12.1.2016, Rahul had told Sandipkumar and his wife that he had been called by his friend Anuj to Bhiwandi. There is a reservation on 15.1.2016 and that he will go to his native village from Bhiwandi. He had left the house on 12.1.2016 at about 11.30 p.m. for Bhiwandi. He had handed over the cellphone to the wife of Sandipkumar. They had received a call on cellphone number from one Anuj and enquired as to whether Rahul had left for Vapi. Rahuy had not returned even after 10 days and the people in U.P. had also informed Sandipukumar that Rahul has not reached his native place. On 3.2.2016, the father of Rahul had come to Vapi for searching him. Thereafter they had learnt that the image of Rahul was captured in the CCTV footage of Monika Hotel at Vadgon, Bhiwandi. They all identified the friend Anuj.

5. The learned Senior Counsel submits that this is a case of circumstantial evidence and the only material against the applicant is that he was seen at the Monica Hotel in the company of the deceased. He

submits that it is a case of circumstantial evidence. It is also submitted that Kajal had parted ways with Rahul six months prior to the incident and therefore, there is no motive to eliminate Rahul on 12.1.2016. The material in the form of last seen together and the fact that Rahul was found dead just behind Hotel Monica coupled with the fact that the waiter and the owner of the said hotel have identified the present applicant as the person who was in the company of the deceased Rahul on the previous night is sufficient to deny the relief under Section 439 of Cr.P.C. to the applicant. In view of the peculiar facts of this case, this Court is of the opinion that the applicant does not deserve to be enlarged on bail.

6. The learned Sessions Court shall not be influenced by the above observations at the time of trial as they are restricted to an application under Section 439 of Cr.P.C.

Application stands rejected.

(SMT. SADHANA S.JADHAV, J.)