

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 1712 OF 2017***

Suresh Ramchandra mali & Anr.

...Applicants

Versus

The State of Maharashtra

...Respondent

Mr.Umesh R. Mankapure, for the applicants.

Mr.S.H.Yadav,APP, for the State.

CORAM : SMT. SADHANA S.JADHAV, J.

DATE : 13th December, 2017.

P.C. :

1. Heard. This is an application under Section 439 of Cr.P.C. The applicants herein are arrested on 15.4.2016 in Crime No.100 of 2016 registered at Vaduj Police Station, Satara. The investigation is completed and charge-sheet is filed against the applicants 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 15.4.2016 at about 9 am., the daughter of Baban Mali i.e. Santoshi lodged a missing report at Vaduj Police Station contending therein that her father had gone to water

the agricultural land in the night and has not returned. The missing report was lodged at about 9.03 a.m. On the same day at about 12.10 in the noon, Santoshi had informed the police that she suspects that her father has in all probabilities, met with homicidal death at the hands of Ramchandra Mali, Subhash Mali, Sadashiv Mali and Suresh Mali who happen to be the relatives. According to her, the motive for causing murder of Baban Mali was that there is a civil dispute between the families. The police had then called upon the original accused No.1 to 3 and enquired with them. In the course of enquiry, the original accused Nos. 1 to 3 had admitted before the police that they have caused homicidal death of Baban Mali and had concealed his dead body at Chitali near Mohite Mali Canal. The three accused had led the police to the discovery of the dead body under Section 37 of the Indian Evidence Act.

3. The dead body was identified by the relatives. The investigation was set in motion.

4. The police recorded the statements of several witnesses. They had seen accused Nos. 1 to 3 proceeding towards the agricultural land of Baban Mali. The neighbouring agriculturists had enquired with Sadashiv Mali and Suresh Mali about the same. That Subhash was driving the tractor

in the land of one Jagannath More. On 13.4.2016 at about 5.30 a.m., he had requested Chandrakant Sutar to inform that he was sleeping in his house in the intervening night. The statement of the witnesses is recorded under Section 164 of Cr.P.C. That the first information report is lodged by the son of deceased on 14.4.2016. In the course of investigation, the cellphone and tobacco pouch of the deceased were found at the spot. There is recovery of weapons at the hands of the accused persons.

5. The learned counsel for the applicants submits that the dead body was discovered at the instance of the original accused Nos. 1 to 3. On the same day, original accused No.4 was arrested and the police had once again shown the discovery of the body at the instance of original accused No.4 and, therefore, the accused No.4 i.e. Suresh who is applicant No.1, deserves to be enlarged on bail.

6. The papers of investigation would show that Sadashiv and Suresh had taken the dead body on motor-cycle to the place where it was buried and while travelling, the dead body was made to sit between Suresh and Sadashiv.

7. There is sufficient material against the accused/applicants. Upon perusal of the papers of investigation, it is clear that an offence is

made out under Sections 302 and 201 of the Indian Penal Code made out against the accused/applicants and, therefore, they do not deserve to be enlarged on bail. The application is rejected.

7. It is made clear that the observations made hereinabove are prima facie in nature and restricted to an application under Section 439 of Cr.P.C. and the Sessions Court shall not be influenced by the same at the time of trial.

(SMT. SADHANA S.JADHAV, J.)