

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

BAIL APPLICATION NO.2057 OF 2017

Mahendra Madhukar Mapari	.. Applicant
vs	
State of Maharashtra	.. Respondent

Mr.P.M.Patil for Applicant
Mr.S.H.Yadav APP for State
Mr.R.J.Ingavale PI Control Room Pune.

Coram : A.S.GADKARI, J

Date : 16th NOVEMBER 2017

P.C.

1. This is an Application under section 439 of Cr.P.C. for bail in C.R.No.78 of 2016 dated 26.10.2016 registered with Talegaon MIDC Police Station, District Pune under section 302 of the Indian Penal Code.

2. It is the prosecution case that due to some earlier altercations between Applicant and the deceased Vitthal Gutte, the accused persons i.e. Applicant and co-accused Ganesh Shete committed murder of the deceased Vitthal Gutte by assaulting him with the aid of stones on his head. The First Information Report is lodged by Smt.Laxmi Vitthal Gutte, the wife of deceased on

26.10.2016 after the dead body of deceased Vitthal Gutte was found at about 8.00 a.m. on the said date. During the course of investigation, the Applicant came to be arrested on 27.10.2016 and after completion of investigation, police have submitted the charge sheet.

3. The record indicates that there are two main circumstances propounded by the prosecution against the Applicant namely (i) 'Last seen together' and (ii) 'Recovery of clothes of the Applicant with blood stains.'

As far as the first circumstance of 'Last seen' is concerned, the witness saw the deceased in the company of the Applicant on 25.10.2016 at 11.30 a.m. and the dead body of Vitthal was found at 8 a.m. on 25.10.2016. There is a substantial gap of time in the witness seeing the Applicant lastly in the company of the deceased and the finding of the dead body.

As far as the recovery of clothes of the Applicant with blood stains are concerned, the said panchanama is effected on 23.10.2017. The Applicant was arrested on 22.10.2016. He was

produced for medical examination on the same day, however, neither the Investigating Officer nor the Medical Officer noticed any blood stains on the clothes of the Applicant during the said period and it is only on 28.10.2016 the said clothes which was on the person of the Applicant, since his arrest have been seized/recovered by the police. The said circumstance is fully shrouded with doubts.

4. In view thereof, the only circumstance against the Applicant is of 'Last seen together' with the co-accused namely Ganesh Shete. The co-accused Ganesh Shete has been released on bail by this Court by an order dated 30.10.2017 and the Applicant is entitled to be released on bail on the ground of parity.

5. In view thereof, the Applicant can be released on bail.

Hence, the following order :

(i) The Applicant be released on bail in C.R.No.78 of 2016 dated 26.10.2016 registered with Talegaon MIDC Police Station, District Pune on his furnishing PR bond of Rs.15,000/- with one or two local sureties in the like amount,

(ii) After his release from jail, the Applicant shall attend

Talegaon MIDC Police Station once in month i.e. on every First Monday of the month between 10.00a.m. to 12.00 non till the conclusion of the trial,

(iii) The Applicant shall also attend all dates before the trial Court,

(iv) The Applicant shall not tamper with the evidence and/or pressurise or threaten the prosecution witnesses.

Application is allowed in the aforesaid terms.

(A.S.GADKARI, J)

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