

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
**CRIMINAL BAIL APPLICATION NO. 2032 OF 2016**

|                                               |     |            |
|-----------------------------------------------|-----|------------|
| Mr. Ajay @ Abhimanyu Utri Choudhary<br>@ Monu | ... | Applicant  |
| Vs.                                           |     |            |
| The State of Maharashtra                      | ... | Respondent |

Mr.I.R.Qureshi, Advocate for the applicant.  
Mr.Arfa Sait, APP, for the State.  
Mr. laxman Wadare, PSI, Saki Naka Police Station present.

**CORAM: SMT.SADHANA S.JADHAV, J.**  
**DATE : 15th February, 2017.**

**P.C.**

Heard. This is an application under Section 439 of Cr.P.C. The applicant herein is arrested on 25.7.2015 in Crime No.393 of 2015 registered at Sakinaka Police Station, Mumbai. The investigation is completed and charge-sheet is filed against the present applicant and the co-accused for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code. The case is committed to the Court of Sessions and is registered as Sessions Case No.133 of 2016.

2. It is the case of the prosecution that on 18.7.2015, Yesu Rajratnam lodged a report at the police station alleging therein that on 17.7.2015 in the afternoon, his wife had telephonically informed him that his brother Babu Selvan has been sick and has been admitted in Paramount Hospital.

3. The complainant rushed to the hospital along with his wife. he learnt that his brother was not admitted in the said hospital. He has been referred to Rajwadi Hospital. At Rajawadi Hospital, his brother had died even before he was admitted. The complainant had noticed ligature marks on the neck of his brother and suspected that he met with a homicidal death. Upon further enquiry, he had learnt that Babu at the relevant time was at home along with his wife Riba. Jenu @ Franklin informed him that his brother Babu had returned home at 6 a.m. after completing his night duty. and went to sleep. Riba had gone to attend her duties in the school. Babu did not wake up in the afternoon and therefore the eldest son of his brother Jenu tried to wake him up and since he did not wake up, he was taken to the hospital.

4. The complainant has further alleged that he had been informed by his brother that his wife Riba had illicit relations with the present applicant and they were in constant touch with each other. That the applicant used to visit the house of Riba in the absence of Babu. Initially, she was taking tuitions at home. Subsequently, she had joined Samta Vidyalaya. The complainant had enquired with Franklin and he was informed that at the relevant time, i.e. 17.7.2015, Riba and Babu were at home. She had sent Franklin to the ground floor. she went from one floor

to another. At that time, he had seen that the present applicant had visited their house. The police had arrived and arrested the present applicant.

5. The statement of franklin was recorded. He has specifically disclosed to the police that at the relevant time, the present applicant had visited their house. Prior to that there was a quarrel between Babu and Rib. That the present applicant had gone to the first floor where his father was sleeping. While leaving the house, the present applicant had muffled his face. That his mother Riba had put him to sleep next to his father and had left the house. Franklin had noticed that there were ants on the body of his father and that he was not moving and therefore he had informed his elder brother . They had taken him to hospital where he was declared dead. The cause of death is due to strangulation.

6. The learned counsel for the applicant submits that the applicant has been arrested merely on suspicion and there is only evidence of last seen together. It is seen from the records that the applicant had visited the house of the deceased at the relevant time. That the application filed by Riba under Section 439 of Cr.P.C. was rejected by this Court on 24.10.2016. It is clear that the applicant has connived with the wife of the deceased and has eliminated Babu.

7. Taking all these aspects into consideration, this Court is of the

opinion that the applicant does not deserve to be enlarged on bail. The application being sans merits, stands rejected. The learned Sessions Judge at the time of trial shall not be influenced by the said observation.

Application stands rejected.

**(SMT. SADHANA S.JADHAV, J.)**