

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

BAIL APPLICATION NO.2210 OF 2016

Kiran Baburao Chavan

... Applicant

Vs.

The State of Maharashtra

.. Respondent

Mr.N.B. Kamble for the Applicant

Mr.Prashant Jadhav , APP, for Respondent – State

Mr.V.P.Valvi, API, Kondhwa Police Station, Pune – present a

CORAM: Mrs.MRIDULA BHATKAR, J.

DATED: FEBRUARY 3, 2017

P.C. :

1. This application is moved by the applicant/accused for bail under section 439 of Criminal Procedure Code as the applicant/accused is prosecuted for the offences punishable under sections 302, 143, 147, 148 and 149 r/w 34 of the Indian Penal Code in C.R. No.142 of 2016 registered with Kondhwa Police Station, at the instance of Sanjay Sampat Jadhav for murder of one Deepak B. Gadve. On 20.4.2010, when Sanjay Jadhav, the police personnel, was patrolling at Kondhwa Police Station, he received information that one body was lying in an injured

condition near ISKON temple. He alongwith the other police visited there and found that the head of that person was crushed and his brain was out. He was dead. The stains around were blood stained. Immediately offence was registered. The police found that it was the body of one Deepak Biru Gadve. During the course of investigation, they found that the sister of the co-accused Vishal Bhalekar and the deceased was in love with each other and, therefore, Vishal, the co-accused alongwith the applicant/accused and other accused had murdered Deepak. The applicant/accused was arrested on 26.4.2010. Hence, the Bail Application.

2. The learned Counsel for the applicant/accused submitted that except the statement of one Akshay Vibhishan Pawar dated 27.4.2016, there is no evidence against the applicant/accused. He also submitted that there are no antecedents against the applicant/accused. The learned Counsel has, therefore, prayed that the applicant/accused be released on bail.

3. Learned Prosecutor while opposing the bail application relied on the statement of Akshay Pawar dated 27.4.2016. He submitted that the witness has seen Deepak on 19.4.2016 i.e., on the day earlier to the incident alongwith the applicant/accused and one

Salim Shaikh. The learned Prosecutor had submitted that besides that there is no other evidence.

4. Perused the FIR, the postmortem notes where the death is shown to have been caused due to the crush injuries on head. In the statement of Akshay Pawar, he has mentioned the name of the applicant that he alongwith one Salim Shaikh, went with the deceased at around 6.30pm on 19.4.2016. Thereafter, on 20.6.2016, the body of Deepak was found. However, apart from this evidence, the prosecution is not in a position to produce any other evidence. It is confirmed by the prosecution that the applicant/accused has no antecedents. There is no evidence of any recovery or any other witness. In view of this, the application is allowed on the following terms:

- a) 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.
- b) The applicant-accused shall not tamper with the evidence or pressurise the witnesses;

c) The applicant-accused shall not indulge into any criminal activity and shall attend on all the Court dates;

d) 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.

e) 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.

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

(MRIDULA BHATKAR, J.)