

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL BAIL APPLICATION NO. 2299 OF 2016**

Dinesh @ Bhaiyya Bhika Thakare

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Rohan R. Sonawane for the Applicant

Mr. Prashant Jadhav, A.P.P for the Respondent-State

ASI Mr. S. G. Fangal from Malegaon Taluka Police Station, Nashik is present.

**CORAM : REVATI MOHITE DERE, J.**  
**WEDNESDAY, 12<sup>th</sup> APRIL, 2017**

**P.C. :**

1. Heard learned Counsel for the applicant and the learned A.P.P for the State.
2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. I-116 of 2016 registered with the Malegaon Taluka Police Station, Nashik, for the alleged offences punishable under Sections 302, 120B, 201 of the Indian Penal Code.

3. Learned Counsel for the applicant states that there is no material to connect the applicant with the alleged offence. He submits that although there is recovery of sword and a wooden danda at his behest under Section 27 of the Evidence Act, the Chemical Analyser's report shows that the blood group is inconclusive. He submits that there is nothing on record to show that the applicant had any motive to assault the deceased.

4. Learned A.P.P opposed the application.

5. Perused the papers. The incident in question has taken place on 20<sup>th</sup> May, 2016. The complainant is the father of the deceased-Akshay. Initially a complaint was lodged by the complainant as against five persons, as he had suspicion on the said five persons and later, the applicant and co-accused-Gajanan came to be arrested. It appears that during the investigation, the police came to a conclusion that initially arrested five accused had no connection with the alleged offence and accordingly a report was filed under Section 169 of the Criminal Procedure Code. The prosecution case rests entirely on circumstantial evidence. It appears that there is an extra-judicial confession made by the applicant to his sister-in-

law –Vandana Nitesh Thakare. The said witness has stated that on 20<sup>th</sup> May, 2016, the applicant came home and carried longish weapon in a dupatta with him, on a motorcycle. She has stated that on 20<sup>th</sup> May, 2016 at about 10:30 p.m., she received a call on her mobile. The said person disclosed that the said mobile was found near Chalisgaon Phata, Malegaon. The said mobile was of the applicant. She has further stated that at about 11:30 p.m., when the applicant returned home, her husband asked the applicant as to where his mobile was, to which, he replied that it had fallen somewhere. She has stated that on the next day i.e. on 21<sup>st</sup> May, 2016, he called her and showed her the spot where there was some ash lying and asked her to throw the same. She has stated that when she questioned him, he disclosed to her that he had assaulted a boy in Hatane Village. She has further stated that the applicant had also disclosed to her that he had burnt his blood stained clothes behind their row-house.

6. Apart from the aforesaid extra judicial confession, there is recovery of a blood-stained sword and wooden log at the instance of the applicant. The Chemical Analyser's report shows that the said articles were stained with human blood, although, the blood group could not be

determined. The deceased has sustained as many as 13 stab and incised injuries. The cause of death is stated to be cardio-respiratory arrest due to multiple stab injuries and head injuries. *Prima facie*, there is sufficient material to show the complicity of the applicant.

7. Considering the aforesaid, this is not a fit case to enlarge the applicant on bail. The application is rejected.

8. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

**REVATI MOHITE DERE, J.**