

9- BA 788 of 2018 a/w BA 1055 of 2018

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

BAIL APPLICATION No. 788 OF 2018

Shri Govind Maruti Mane

...Applicant

Vs.

State of Maharashtra

...Respondent

WITH

BAIL APPLICATION No. 1055 OF 2018

Naseema Motilal Tamboli

...Applicant

Vs.

State of Maharashtra

...Respondent

Mr. Surel Sunil Shah for Applicant in BA 786 of 2018

Mr. Mohansinh U. Rajput in BA No. 1055 of 2018

Mr. S.R. Agarkar -APP

Mr. K.P. Dhavale, PSI, Kamti Police Station, Solapur (Gamin)

CORAM : SMT. SADHANA S. JADHAV, J.

DATE: JULY 12, 2018

P.C.

1. Heard. These are the applications under section 439 of the Criminal Procedure Code.

2, The Applicant in Criminal Application No. 1055 of 2018 has been arrested on 14th August, 2017 and the Applicant in Criminal Application No.

788 of 2018 has been arrested on 9th August, 2017 in Crime No. 117 of 2017 registered at Kamati Police Station, Taluka Mohol, Dist. Solapur for the offences punishable under section 302, 201 r/w. 34 of the Indian Penal Code. The investigation is completed and the charge-sheet is filed.

3. It is the case of the prosecution that on 25th June, 2017, an unidentified dead body of a male person was seen under the pool of Bhima River. The dead body was identified to be that of Kayyum, who happens to be the biological son of the applicant in Criminal Application No. 1055 of 2017. That Kayyum was missing from his house since 10.00 p.m. of 24th June, 2017.

4. On 25th June, 2017, Amir Tamboli lodged a report at the police station alleging therein that in fact, they were all attending the programme of Id, Kayyum was in their company. At about 9.30 p.m., he had suddenly, left the company of the first informant and had gone home. After returning, he had disclosed to the first informant that when he went home, he had seen his Abba i.e. Motilal Tamboli drinking alcohol. At 10.00 p.m. Kayyum again informed the first informant that his father Motilal Tamboli was not at home and on 25th June, 2017 the dead body of his father was found.

5. The wife of Motilal Tamboli was arrested on 14th August, 2017. While in custody, she had disclosed that her husband Motilal had learnt about her illicit

relations with Govind. He was an obstacle in their relationship and thereby, they had eliminated him. It is pertinent to note that the entire investigation rests upon the statement of Naseema Tamboli, which was recorded while she was in custody. Except the said statement which is recorded while in custody, there is no material against the present Applicants and in view of this, the Applicants deserve to be enlarged on bail. The observations are prima facie in nature and shall not be considered for discharge application or at the time of trial. Hence, the following order:

ORDER

- (i) Applications are allowed.
 - (ii) The Applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs.50,000/- each and one or more solvent sureties in the like amount.
 - (iii) The Applicants shall not leave Taluka Mohol till conclusion of the trial.
- Applications stand disposed of in the aforesaid terms.

[SMT. SADHANA S. JADHAV, J.]