

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1185 OF 2018**

Ravindra Gurupad Babannawar. .. Applicant.

V/s.

State of Maharashtra .. Respondent.

Mr. Anand Patil I/b. Anand Patil & Associates, advocate for applicant.

Mr. S.H. Yadav, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J.

DATE : JULY 11, 2018.

P. C. :

1 Heard the learned Counsel for the applicant and the learned APP for State.

2 This is an application under section 439 of the Code of Criminal Procedure, 1908. The applicant herein is arrested on 30/3/2017 in Crime No. 61 of 2017 registered at Gadhinglaj Police Station, Kolhapur for offence punishable under section 302 of the Indian Penal Code. Investigation is completed and charge-sheet is filed.

3 It is the case of the prosecution that on 29th March, 2017 the dead body of Shivannappa Babanavar was found abandoned on the road at about 9.30 p.m. The information was given to the family members.

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The son of the deceased namely Arun Shivannappa Babanavar lodged a report at the police station that when his uncle was in dire need of funds, his father had purchased his agricultural land to save him from financial exigencies. That the present applicant was insisting upon his father to return the land. He had in fact abused his father and assaulted him on two occasions due to which non-cognizable cases were registered against the applicant on 17/4/2016 in respect of the incident which had taken place on 16th April, 2016. The police had also taken certain preventive measures against the applicant on 22nd May, 2016. That on 29th March, 2017, when he had learnt that the dead body of his father is lying on the road, he had suspected that it could be none other than the present applicant, who must have eliminated his father and therefore, he lodged FIR against the present applicant.

4 The papers of investigation do not indicate that there is any material to show that there is evidence of last seen in the company of the deceased. Moreover, soon before the incident or after the incident also the applicant was not seen in close proximity.

5 The learned APP submits that on 30th March, 2016 blood stained clothes were recovered from the person of the accused and in the memorandum, he had stated that the same clothes were on his

person at the time of the incident. Needless to say that the panchanama of recovery of clothes of the present applicant was done on 30th March, 2017 between 7.40 p.m. to 8.15 p.m. i.e. practically after 22 hours of the incident. In view of the papers of the investigation and submissions advanced across the bar, the applicant deserves to be enlarged on bail as no implicit reliance can be placed on recovery panchanama under section 27 of the Evidence Act at this stage.

6 The observations are restricted to the application under section 439 of the Code of Criminal Procedure, 1973 and the same shall not be considered for discharge application or at the time of trial.

7 Hence, following order is passed :

ORDER

(i) The application is allowed.

(ii) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- with one or more sureties in the like amount.

(iii) The applicant shall not reside in Taluka Gadhinglaj till conclusion of the trial.

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(iv) The applicant shall, within four weeks from the date of release, furnish all details regarding his place of residence, his contact numbers such as landline number, cellphone number etc. to the concerned court.

(v) The applicant shall not tamper with the evidence.

8 The application is disposed of accordingly.

[SMT. SADHANA S. JADHAV, J.]