

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

BAIL APPLICATION NO.1749 OF 2018

Yogesh Dnyeshwar Gulave	...Applicant
Versus	
The State of Maharashtra	...Respondent

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Mr. Harshad M. Inamdar for the Applicant.

Mr. S.H. Yadav, APP for the Respondent -State.

Mr. Rajesh Deore, Sr. P.I., Karmala Police Station, Solapur Rural
present.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 29th AUGUST, 2018.

P.C.:-

This is an application under Section 439 of the Cr.P.C. filed by the aforesaid Applicant, who has been arrested in Crime No.262 of 2018 registered at Karmala Police Station, District-Karmala, for the offences punishable under Sections 182, 201 and 302 of the IPC.

2. Heard Mr. Harshad Inamdar, the learned counsel for the Applicant and Mr. S.H. Yadav, the learned APP for the Respondent-State. Perused the records and considered the submissions advanced by the learned counsels for the respective parties.

3. The Applicant herein had lodged FIR dated 5th April, 2018

stating that on 4th April, 2018 at about 10.30 p.m. his brother Umesh Gulve had slept outside their residential house and that in the morning his mother Sangeeta had told him that said Umesh was lying in a pool of blood. He had therefore lodged a complaint against an unknown person. In the FIR the first informant /Applicant had stated that Umesh was having illicit relationship with one Manisha and for which reason her father and brother were in inimical terms with the deceased and that they had tried to assault him and had also threatened him.

4. The records reveal that one Dattatray Nimgire had stated that on 5th April, 2018 at about 5.10 hours the Applicant had informed him that his brother, who was sleeping outside the house was found lying in a pool of blood. He has stated that he had proceeded to the place of the incident and verified that the deceased had head injury. This witness had told the Applicant to report the matter to the police, but, the Applicant had stated that it was necessary to report the matter to the police and that they should cremate the body of the deceased. Based on the said statement of Dattatraya Nimgire, the Investigating Officer arrayed the first informant as an accused.

5. The learned APP, upon the instructions of the I.O. states

that at this stage there is no other incriminating material to show the involvement of the Applicant. In my considered view, the statement of Dattatraya Nimgire does not prima facie indicate that the Applicant was involved in committing the said crime. The material on record reveals that the Applicant was sleeping inside the house, whereas the deceased was sleeping in the courtyard. The statement of the mother of the deceased reveals that she was the first person, to see the deceased lying in a pool of blood and she was the one who had informed the Applicant about the incident. It was only thereafter that the Applicant had seen the body and called the neighbours.

6. It is pertinent to note that the records, more particularly the statement of the mother of the deceased prima facie reveals that the deceased was a habitual drunkard. He used to mercilessly assault his parents. She has narrated several incidents, which prima facie indicate that the deceased used to subject the family to physical and mental trauma. In this background a mere expression of reluctance to report the death to the police would not prima facie lead to an inference that he had committed murder of the deceased.

7. The above facts and circumstances, coupled with the fact

that the investigation is completed and charge sheet has been filed, do not justify custody pending trial.

8. Hence, the following order:-

- (i)) The Bail Application is allowed.
- (ii) The Applicant shall be released on bail on furnishing bail bonds of Rs.25,000/- with one or two sureties in the like amount to the satisfaction of the learned Sessions Judge, Barshi, District Solapur.
- (iii) The Applicant shall furnish his permanent as well as temporary address, if any and his contact details to the Investigation Officer.
- (iv) The Applicant shall not change his residential address without prior intimation to the Sessions Judge, Barshi.
- (v) The Applicant shall not interfere with the witnesses in any manner.

(SMT. ANUJA PRABHUDESSAI, J.)