

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

BAIL APPLICATION NO. 2881 OF 2017

Chandrakant Pralhad Babar. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Mr. Umesh R. Mankapure, advocate for Applicant.

Mr. Y.M. Nakhwa, APP for State.

**CORAM : SMT.SADHANA S. JADHAV,J
DATE : FEBRUARY 14, 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, 1973. The applicant herein is arrested on 4/5/2017 in Crime No. 93 of 2017 registered at Atpadi Police station for offence punishable under section 302, 201 of the Indian Penal Code.

3 It is the case of the prosecution that on 4th May, 2017 Mangini Tukaram Mallalkar, officiating as police head constable at Atpadi Police station lodged a report at the police station that on that day Police Naik Santosh Chavan had informed them that Chandrakant Babar i.e. present applicant resident of Sangola had killed his wife near Kurnat Hill at village Shetphal. The police had taken him to the spot. The applicant had disclosed to the police that his wife had illicit intimacy with their neighbour Kishor Kadam. He had learnt about the same 8 months ago. He had tried to desert his wife. There were constant quarrels between the couple. Thereafter, he had lured his wife. They had been to the temple. When they reached Kurnat Hill, he had smashed her head with stone. He had led police to the spot where he had caused homicidal death of his wife and abandoned dead body. He had identified the dead body. The offence was registered. The applicant was taken into custody. Investigation is completed and charge-sheet is filed.

4 The learned Counsel Mr. Mankapure submits that although it is the case of the prosecution that the applicant had led the police staff

to the spot of incident, however, the police had not recorded panchanama and therefore, it cannot be said that dead body was discovered at the instance of the present applicant. It is also submitted that there is no material to show that the applicant was last seen in the company of his wife at Kurnat Hills.

5 In the course of investigation, investigating agency had recorded the statement of one Santosh Vitekar on 6/5/2017 wherein he has disclosed that on 4/5/2017 he has seen the applicant alongwith his wife on the motor cycle and they were proceeding towards Sangola. The cell phone of the applicant had fallen down. The witness has given the said cell phone to the applicant. He had seen the blood stained clothes of the applicant while he was returning to cell phone. The statement of Dattatray Mane officiating as head constable at Sangola Police station would show that the applicant had been to the police station at about 3.30 p.m.. He had disclosed that he has killed his wife Rani near Kurnat Hill. The said statement was recorded prior to the registration of offence.

6 The learned APP rightly submits that in view of this said statement would be hit by section 25 of the Indian Evidence Act. The statement of Santosh Chavan would also corroborate with the applicant had visited police station and confessed about the act committed by him.

7 It is in these circumstances, this Court is of the opinion that the applicant does not deserve for bail. However, it is made clear that the observations are restricted to the application under section 439 of the Code of Criminal Procedure, 1973 and the trial court shall not be influenced by the same at the time of trial.

8 The application being sans merits stands rejected and disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)