

1- BA 56 of 2018

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

BAIL APPLICATION No. 56 OF 2018

Dilip Mahadev Mhatre

...Applicant

Vs.

State of Maharashtra

...Respondent

Mr. S.V. Marwadi i/b. Mr. Kartik S. Garg for Applicant

Mr. S.S. Pednekar -APP

CORAM : SMT. SADHANA S. JADHAV, J.

DATE: JULY 4, 2018

P.C.

1. Heard. This is an application under section 439 of the Criminal Procedure Code.

2. The Applicant herein is arrested on 7th June, 2017 in Crime No. 51 of 2017 registered at Vadkhal Police Station under Section 302 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 Nandkumar Gharat was a good friend of the present Applicant. It appeared that Nandkumar had illicit relations with the wife of the Applicant and hence, they had quarreled on more than one

occasions. That, Applicant had restrained Nandkumar from visiting his house or playing with his children. It is the case of the prosecution that on 3rd June, 2017, Nandkumar had left his house and had not returned. The family members presumed that Nandkumar is a driver and must have gone on a shift. On 4th June, 2017, one Prabhakar Mhatre had called upon Bharatkumar i.e. the brother of Nandkumar and had informed that Nandkumar had lying on a road in an injured condition. When the family members went to the spot and they saw that he was severely injured, his face was smashed and that he could not be identified. Nandkumar had expired. On 4th June, 2017, Bharatkumar lodged a report at the police station and had alleged that since the present Applicant had suspected that Nandkumar had illicit relations with his wife, he has been eliminated by the Applicant. On the basis of the said report, Crime No. 51 of 2017 is registered against the four persons i.e. the present Applicant, Amol Y. Mhatre, Roshan R. Mhatre and Sukhda D. Mhatre, happens to be the wife of the Applicant. The police had recorded a statement under section 164 of the Cr.P.C. as far as Sukhda was concerned. Roshan had enlarged on bail wife order dated 16th August, 2017.

4. It is the case of the prosecution that soon after the incident, all the three accused, except Sukhda Mhatre, had left for Nasik. The tower location shows

that they were in each of the company at Nasik. A Swift Deziire Car belonging to Prakash Patil was seized. The statement of Prakash Patil was recorded and he had stated that on that day, the present Applicant had taken his Swift Deziire Car to visit Shirdi along with his friends. The car was returned to Prakash Patil on 6th of June, 2017. However, the Investigating Officer has shown recovery of cloths at the instance of the present Applicant under Section 27 of the Indian Evidence Act. The C.A. report shows that the recovery as far as the blood group on knife and axe is inconclusive. This is the case of circumstantial evidence.

5. The learned counsel for the Applicant submits that as on today there is no specific incriminating material against the present Applicant and, therefore, he deserves to be enlarged on bail.

6. Taking into consideration the papers of investigation and submissions advanced across the bar, the Applicant deserves 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) Application is allowed.

(ii) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of

Rs.50,000/- and one or more sureties in the like amount.

(iii) The Applicant shall not enter Taluka Pen till conclusion of the trial.

Application for bail stands disposed of in the aforesaid terms.

[SMT. SADHANA S. JADHAV, J.]