

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 327 OF 2018**

Devendra @ Bitya Bhausahab Padale	Applicant
Versus	
The State of Maharashtra	Respondent

Mr.Satyavrat Joshi, for the applicant.
Mrs. Veera Shinde,APP, for the State.

**CORAM : SMT. SADHANA S.JADHAV, J.
DATE : 23rd February, 2018.**

P.C. :

1. Heard. This is an application under Section 439 of Cr.P.C. The applicant herein is arrested on 8.5.2015 in C.R. No.155 of 2015 registered at Bharti Vidyapith Police Station for the offences punishable under Sections 302, 201 read with section 34 of the Indian Penal Code.
2. It is the case of the prosecution that on 3.5.2015, there was a quarrel between between Pravin and Siddhesh Mule. Both of them were under the influence of alcohol. It appears that Pravin also had a quarrel with the present applicant. Thereafter, the applicant as well as Siddhesh Mule, with the help of their other friends, had caused the homicidal death of Pravin by pelting him with the stone at his head and face. They had taken away the identity card and other cards from the deceased Pravin and had

disposed them of.

3. The learned counsel for the applicant submits, at the threshold, that the applicant is praying for enlargement on bail by virtue of the doctrine of parity. According to the learned counsel for the applicant, Ravi Jadhav, Ganesh Shinde and Ramesh Koli have been enlarged on bail by this Court since it was found that there was no clinching material against them.

4. As far as the present applicant is concerned, it appears from the papers of investigation that at the behest of the applicant, two cement blocks were discovered and it is the case of the prosecution that Pravin was assaulted by the said cement blocks.

5. The learned counsel for the applicant submits that in fact, the scene of offence panchnama was drawn prior to the arrest of the applicant and the two cement blocks were found at the scene of offence and, therefore, by no stretch of imagination, it can be said that cement blocks are recovered at the instance of the application under Section 27 of the Indian Evidence Act could be a clinching material against the present applicant. The case rests on circumstantial evidence. It appears that the photographs of accused Pravin were shown to Dattatray Ubale. He has identified Siddhesh Mule on the basis of the photographs shown to him. Similarly,

he was informed by the police that the other accused had along with Siddhesh Mule caused the homicidal death of Pravin. The dead body of Pravin was found on the Old Satara Road, Near Royal Hotel. The police were informed by somebody on the cellphone that a dead body is lying in an abandoned condition on the said road. There are no eye-witnesses.

6. In view of this, the applicant also deserves to be enlarged on bail. However, it is made clear that the observations are restricted to an application under Section 439 of Cr.P.C. and shall not be taken into consideration for the purpose of quashing of FIR, discharge application or at the time of trial.

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 solvent sureties in the like amount.
- (iii) The applicant shall attend the Shivajinagar Police Station on first Saturday of every month between 10 a.m. and 12 noon.

(SMT. SADHANA S.JADHAV, J.)