

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 426 OF 2018**

Mahesh Shivaji Adarshe ..Applicant

v/s.

State of Maharashtra ..Respondents

Mr. A.A.H.Ponda for the Applicant.

Mr. S.R.Agarkar, APP for the State.

Mr. V.S.Chaulkar. PN. 1586 of Paud Police Station, Pune, is present.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : JUNE 21, 2018.
(IN CHAMBER)**

P.C.

1. This is the second bail application, filed by the applicant who is one of the accused in Sessions Case No. 403 of 2014 pending on the file of Addl. Sessions Judge, Pune. He is facing trial for offences under Section 302, 301, 366 r/w. 34 of IPC.

2. The case of the prosecution in brief is that the applicant along with the other co-accused committed murder of Swapnil Gaikwad and tried to destroy the evidence by setting the body on fire. The mother of the deceased had filed missing report on 14th February, 2014. Subsequently, on 17th February, 2014, one Govind Sarose

reported that one half burnt body was lying at Gut No. 251, Mauje Bhambarde, Mulshi, Pune. The brother of the deceased lodged FIR, pursuant to which Crime No. 33/2014 came to be registered. The applicant was arrested on 22nd March, 2014. The crime was investigated and upon completion of investigation chargesheet was filed. The case being sessions triable, the same was committed to the Sessions Court at Pune.

3. The applicant had filed bail application No.1260 of 2015, which was dismissed by this Court by Order dated 21st January, 2016, relying mainly on the circumstances viz. the applicant had purchased a knife on 13th February, 2014 i.e. a day prior to the incident, and also a bottle of petrol from the petrol pump wherein he was employed. It was also observed that the material on record prima facie revealed that the deceased was having illicit relation with the wife of the applicant and hence there was motive for the applicant to commit the crime.

4. Shri Ponda, the learned Counsel for the applicant submitted that the present application has been filed in view of change of circumstances. He submits that the C.A. reports which were

received subsequent to the order dated 21st January, 2016 reveal that no blood was detected on the knife which was allegedly recovered from the accused. Similarly, the report reveals that the bottle which was found near the place of the incident does not contain any trace of petroleum hydrocarbon residue. He has further stated that the T.I. parade also prima facie indicates that none of the witnesses had identified the applicant herein and hence there is no material to show that the applicant was last seen with the deceased.

5. The learned APP submits that the trial of the case has already commenced and hence it would not be proper to release the applicant on bail. He does not dispute that the CA reports were received subsequent to the order dated 21st January, 2016, whereby the previous bail application was rejected. He has also not pointed out any other circumstances which prima facie show the involvement of the applicant in committing the said crime.

6. I have perused the records and considered the submissions advanced by the learned Counsels for the respective parties. The records reveal that the case of the prosecution rests mainly on the circumstantial evidence. The circumstances considered while

dismissing the previous bail application were purchase of knife and petrol, a day prior to the incident. The knife which was allegedly recovered as per the disclosure statement of the applicant was sent to the forensic science laboratory for examination. The CA reports which were received subsequent to the dismissal of the previous bail application, prima facie reveal that no blood was detected on the said knife. Similarly, no traces of petroleum hydrocarbon residue were detected in the plastic bottle found near the scene of offence. As stated earlier, the learned APP has not been able to point out any other circumstances to show the involvement of the applicant in the above crime. Considering these facts, and in view of the above change in fact situation, the applicant would be entitled for bail.

7. Under the circumstances and in view of the discussion supra, following order is passed.

- (i) The application is allowed.
- (ii) The applicant- Mahesh Shivaji Adarshe be released on bail, on furnishing bail bond in the sum of 1,00,000/- (Rupees One Lakh Only) with two or more solvent sureties in the like amount to the satisfaction of the ld. Addl. Sessions Judge, Pune.
- (iii) The applicant shall not leave the State without prior permission

of the ld. Addl. Sessions Judge, Pune.

(iv) The applicant shall furnish his contact number and his local as well as permanent address, and will report change in the address if any, to the ld. Addl. Sessions Judge.

(v) The applicant shall not interfere with the witnesses and shall not tamper with the evidence in any manner.

(vi) The ld. Addl. Sessions Judge is also permitted to impose any other condition he feels necessary for ensuring the attendance of the applicant on the dates of hearing in Sessions Case No.403 OF 2014.

(ANUJA PRABHUDESSAI, J.)