

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

BAIL APPLICATION NO.566 OF 2018

Anil Vasant Sutar		Applicant
<u>Vs.</u>		
The State of Maharashtra		Respondent

Mr. Aniket U. Nikam I/by Mr. Aashish Satpute for the Applicant.
Mr. Vinod Chate, APP for the State.
Mr. V.S. Chaudhari, Police Naik, Paud Police Station.

Coram : Smt. Sadhana S. Jadhav, J.
Date : 21st June, 2018

P.C.:

1 Heard the learned counsel for the applicant and the learned APP.

2 This is an application under Section 439 Code of Criminal Procedure. The applicant herein is arrested on 17th September 2017 in Crime No.309 of 2017, registered at Paud Police Station for the offences punishable under Sections 302, 201 read with 34 of Indian Penal Code. The investigation is completed and the charge-sheet is filed.

3 It is the case of the prosecution that one Rushikesh Gade was arrested in Crime No. 61 of 2017 registered at Kondhwa police station for the offences punishable under Sections 302, 201 of Indian Penal Code. While in custody, he had disclosed that in the year 2014, he alongwith the present applicant had caused the homicidal death of the brother of the applicant namely Vikas Sutar. It is a matter of record that in respect of the death of Vikas Sutar, A.D. No. 53 of 2014 was registered under Section 174 Cr.P.C. The police investigating Crime No. 61 of 2017 had called for the papers in A.D. No.53 of 2014 and it was revealed that the deceased had sustained multiple blunt traumas and injuries. The investigating officer had noticed that the post mortem notes indicated that Vikas Sutar had sustained as many as 11 injuries. On the basis of the disclosure statement, the applicant was arrested in C.R. No.309 of 2017.

4 Upon perusal of the papers of investigation, it is clear that all the statements are recorded only after the accused is

arrested. The case pertains to the F.I.R. filed in 2017, whereas the applicant is arrested practically after three years. The statement of the mother of the deceased and the accused-applicant would show that on the relevant day, the deceased was lying in abandoned condition under a tree. People had presumed that it was an accidental death, since Vikas was an alcoholic. His mother had disclosed to the police that he used to drink alcohol and quarrel with the people. That he had not worn any clothes atleast three days prior to his death and therefore the people had believed that he has died due to the overdose of alcohol. There was no suspicion against the applicant at that stage. Merely on the basis of the statement of an alleged co-accused, the applicant is arrested in the present case. Hence, the applicant has made out a case for grant of bail.

5 The observations are prima facie in nature and shall not be considered for discharge application or at the time of trial. Hence, the order :

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 not leave Pune without prior permission of the Court.

(Smt. Sadhana S. Jadhav, J)