

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

CRIMINAL BAIL APPLICATION NO.692 OF 2018

Gopal Pralhad Gosavi	... Applicant
V/s	
The State of Maharashtra	... Respondent

Mr.Hrishikesh Mundargi i/by Ms.Shradha Sawant for the Applicant.

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

Mr.D.D.Ingole, API, Panchavati Nashik City Police Station present.

**CORAM : SMT.SADHANA S. JADHAV, J.
DATE : JUNE 05, 2018.**

P.C. :

1. Heard.
2. This is an application under Section 439 of Cr.P.C.. The applicant herein was arrested on 8th October 2017, in Crime No. I 208 of 2017 registered at Panchavati Police station, Nashik for the offences punishable under Sections 302, 364, 201, 120(B) of IPC. The investigation is completed and charge-sheet is filed.
3. On 23rd May 2017, police head constable Ashok Sarode was investigating into Missing Register No.178 of 2015 in respect

of the missing person Jalindar Ugalmugle, resident of Nasik. In the course of investigation, he had arrested accused Nos. 5 and 6 in Crime No.196 of 2017 and in the said inquiry it was revealed that the original accused Nos.5 and 6 had caused homicidal death of Jalindar Ugalmugle on 1st October 2015.

4. It is a matter of record that the dead body of Jalindar Ugalmugle was found near Ghoti. It was unidentified and unclaimed and report was lodged practically after two years of the alleged incident.

5. On 23rd May 2017, in the course of inquiry with Avinash Kaulkar and Rohit Kadale i.e. the accused Nos.5 and 6 in the present case, there was a disclosure statement admitting the causing of homicidal death of Jalindar Ugalmugle. Learned counsel for the applicant at this stage submits that Avinash Kaulkar happens to be juvenile in conflict with law and his trial has been separated. Rohit Kadale is in custody and is accused No.

5. The present applicant happens to be the original accused No.

8. It is the case of the prosecution that the present applicant was working with Hemant Shetty, who is original accused No.1 and who had conspired causing of death of Jalindar. Even according

to the prosecution, it was Hemant Shetty who hired two persons for causing the homicidal death of Jalindar. On 30th May 2017, the statement of wife of deceased was recorded and she had specifically disclosed there were intermittent quarrels between her husband and Hemant Shetty. She had cautioned her husband in respect of the same, however, it was of no avail. She has further disclosed that before her husband was missing, there was quarrel between her husband and Hemant Shetty. Even at that stage she had learnt that her husband was last seen in the company of Rohit Kadale and Avinash Kaulkar. The incriminating material against the present applicant is that he had contacted accused No.2 on two occasions. While granting bail to accused No.1 this court (Coram : A.S.Gadkari, J.) has observed in paragraph No.7 as follows:-

“The prosecution has propounded three major circumstances against the Applicant namely:

- (i) Motive,
- (ii) Accused no. 2 Rakesh Koshti is the associate or is a close acquaintance of the Applicant and,
- (iii) Accused no.8-Gopal Gosavi the Personal Assistant of the Applicant was in constant touch with the accused no. 2 Rakesh Koshti prior to and

after the commission of the said offence i.e. before and after 1.10.2015.”

6. It is also observed that friend of the deceased had disclosed in the course of investigation that there was a quarrel between Hemant Shetty and Jalindar and he had apprehension that he would be eliminated by him. Rakesh Koshti is being prosecuted under the provisions of M.C.O.C. Act. Learned counsel for the applicant submits that in all probabilities a possibility that the accused No.1-Hemant Shetty had used the cellphone of his personal assistant to contact Rakesh Koshti cannot be ruled out. The court while granting bail to Hemant Shetty had observed that it is a weak piece of evidence. However, this court cannot be oblivious of the fact that the present applicant was only assisting his employer. There is no other material against the present applicant. He has no criminal antecedent. Neither he was a close associate of original accused Nos. 5 and 6 or accused No.2, whereas there is material to show that original accused No. 2 was well known to the original accused No.1. Taking into consideration all these aspects, this court is of the view that the applicant is entitled for grant of bail. The observations made

hereinabove are restricted only for grant of bail under Section 439 of Cr.P.C. and shall not be taken into consideration while quashing the FIR or discharge application or at the time of trial. Hence, the following order:

ORDER

- i) The Application is allowed.
- ii) The applicant be enlarged on bail on furnishing PR bond in a sum of Rs.50,000/- with one or more solvent sureties in the like amount.
- iii) The applicant shall not reside in Nasik district till the conclusion of trial except for attending the dates at the time of trial. Upon failure to attend any two consecutive dates, the prosecution is at liberty to file application under Section 439(2) of Cr.P.C.
- iv) The application is disposed of accordingly.

(SMT.SADHANA S.JADHAV, J.)