

8- BA 760 of 2018

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

BAIL APPLICATION No. 760 OF 2018

Devidas T. Palwe and Anr.

...Applicants

Vs.

The State of Maharashtra

...Respondent

Mr. Aniket U. Nikam for Applicant

Ms. Veera Shinde-APP

CORAM : SMT. SADHANA S. JADHAV, J.

DATE: AUGUST 9, 2018

P.C.

1. Heard the learned counsel for the Applicants and the learned APP for State.
2. This is an application filed under section 439 of the Code of Criminal Procedure, 1973.
3. After arguing for sometime, the learned counsel for the Applicants seeks liberty to withdraw the application as far as Applicant No.1 is concerned.

4. As far as Applicant No.2 is concerned, he is arrested on 29th October, 2017 in Crime No. 219 of 2017 registered at Alandi Police Station for offences punishable under Section 302 r/w. 34 of the Indian Penal Code. The investigation is completed. The charge-sheet is filed and the case is committed to the Court of Sessions and registered as Sessions Case No. 29 of 2018.

5. It is the case of the prosecution that Applicant No.2 happens to be working as a driver of Applicant No.1. Applicant No.1 has taken the cousin of his wife and his two children in the Scorpio Car to Pimpalgaon for booking a flat. When they were on the 5th floor, Applicant No.1 had asked Applicant No.2 to go and get some documents from the Scorpio Car. He had also asked him to take Uday Khedkar and his children to the car and when they reached the car, they heard a thumping noise. They heard the cries of Manda and saw that she had fallen from the 5th floor. It is further case alleged that Applicant No.1 had pushed his wife from the 5th Floor. The investigating officer had recorded the statements of the co-accused under section 164 of Cr.P.C. wherein it is submitted that the Applicant was on the 5th floor with his wife when she fell on the ground. That he had asked Uday Khedkar to inform the relatives that she had slipped and fallen down while she was descending the staircase.

6. The learned APP submits that there is no material to show that the

deceased Manda had slipped and fallen down while she was descending the staircase.

7. Be that as it may. No specific role has been attributed to the present Applicant No.2. He was near the car when deceased Manda had fallen down.

8. In view of the aforesaid observations, Applicant No.2 deserves to be enlarged on bail.

9. The observations are prima facie in nature and shall not be taken into consideration for purpose of discharge application or at the time of trial.

10. Hence, the following order is passed:

ORDER

(i) Application is partly allowed.

(ii) The application in respect of Applicant No. 1 stands dismissed as withdrawn.

(iii) Applicant No.2 be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- and one or more solvent sureties in the like amount.

(iv) Within four weeks of being enlarged on bail, Applicant No.2 shall give his particulars regarding address, cell number and other details to the investigating agency and shall co-operate with the investigating agency,

as and when called.

11. Application stands disposed of in the aforesaid terms.

[SMT. SADHANA S. JADHAV, J.]