

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

BAIL APPLICATION NO.853 OF 2018

Jagdish @ Jaggu Dattu More	...Applicant
Versus	
The State of Maharashtra	...Respondent

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Mr. Amogh P. Khodye I/b. Mr. Harshad Bhadbhade for the Applicant.
Mr. Rajan Salvi, APP for the Respondent-State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 22nd OCTOBER, 2018.

P.C.:-

This is an application under Section 439 of the Cr.P.C. filed by the aforesaid Applicant, who has been arrested in C.R. No.130 of 2015 registered with Lonavala City Police Station, District-Pune, for offences punishable under Sections 120 B, 201, 302, 342, and 364 of the Indian Penal Code, 1860.

2. Mr. Amogh Khodye, the learned counsel for the Applicant submits that there is no prima facie material to show the involvement of the Applicant. Initially the FIR was lodged for offence under Section 363 of the IPC. Subsequently, Section 302 of the IPC came to be added. He submits that bodies of the two deceased boys have not been

found. He further submits that the skeletons and bones recovered at Tamhini Ghat, are not of the said boys as it is evident from the DNA report. He submits that the Applicant is in custody since September, 2015 and considering that there is no material as against him, he should be released on bail. He has placed on record copy of order passed by this Court (Coram: Mrs. Mridula Bhatkar, J.). He contends that since bail has been granted to similarly placed co-accused, the Applicant is also entitled for bail on the ground of parity.

3. Mr. Rajan Salvi, the learned APP for the Respondent-State submits that statements of the witnesses clearly indicate that the Applicant herein was one of the persons involved in causing death of the said two boys.

4. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

5. The records prima facie reveal that on 20.7.2015 one Shripal Gaikwad had lodged a missing report stating that his son-Akshay @ Sonya Shripal Gaikwad, who was 27 years of age and one Rajesh Pimple were missing from 18.7.2015. On 4.8.2015 he lodged the FIR stating that one Ajay Sawant, had told him that on 18.7.2015

@ 10.30 p.m. Akshay Gaikwad (deceased) had intervened in a quarrel between Rajesh Pimple (deceased) and Kisan Pardeshi (accused No.1). Said Ajay Sawant told the first informant that Kisan Pardeshi had taken the said two boys by his car. The first informant therefore suspected that said Kisan Pardeshi was involved in abducting his son as well as Rajesh Pimple.

6. In the course of the investigation statement of Ajay Sawant was recorded. The statement of this witness prima facie indicates that on 18.7.2015 at about 9.15 p.m. there was a quarrel between the accused No.1-Kisan Pardeshi and Rajesh Pimple. The statement of this witness prima facie reveals that the Applicant was also present and that the Applicant as well as Kisan Pardeshi had assaulted Rajesh Pimple. He has stated that Kisan Pardeshi had forcibly taken the said two boys alongwith him to Kamshet.

7. The statement of Deepak Reddy also prima facie reveals that on 18.7.2015 these two boys viz-Rajesh and Akshay were brought to a 'Matth' at Kamshet by one blue colour Hundai Car, the Applicant and others had removed their clothes and assaulted them by bamboo sticks and kicks and blows, etc. He has further stated that the said boys had sustained severe bleeding injuries. He has further stated that

the accused No.1 Kisan had confirmed that the said two boys were dead and thereafter he had told others to throw the body into a nearby valley.

8. The material on record prima facie reveals that the Applicant was involved in taking the said two boys to Kamshet and that the Applicant and others brutally assaulted said two boys. The statement of Deepak Reddy prima facie reveals that said two boys expired on the spot and that the main accused had given instructions to dispose of their bodies. Under these circumstances, the fact that the corpses of these boys were not found, is not a ground to release the Applicant on bail. The gravity of the offence is sufficient to decline bail to the Applicant. Furthermore, some of the witnesses are known to the Applicant. Releasing the Applicant at this stage can hamper the trial and result in interference with administration of justice.

9. Considering all the above facts and circumstances, in my considered view this is no a fit case for bail. Hence, the application is dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)