

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

BAIL APPLICATION NO.878 OF 2018

Atish Balram Raste	...Applicant
Versus	
The State of Maharashtra	...Respondent

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Mr. Aniket Nikam with Mr. Aashish Satpute for the Applicant.
Mr. S.R. Agarkar, APP for the Respondent -State.
Mr. Girish V. Dighavkar, Asst. Police Inspector, Lonand Police Station,
Pune, present.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 29th AUGUST, 2018.

P.C.:-

This is an application filed under Section 439 of the Cr.P.C by the aforesaid Applicant, who has been arrested in Crime No.464 of 2017 registered at Talegaon-Dabhade Police Station, District-Pune, for offence punishable under Section 302 r/w. 34 of the IPC.

2. Heard Mr. Aniket Nikam, the learned counsel for the Applicant and Mr. S.R. Agarkar, the learned APP for the Respondent -State. Perused the records and considered the submissions advanced by the learned counsels for the respective parties.

3. The case of the prosecution in brief is that on 23rd October, 2017 when the first informant Kaluram Kedari was at his residence,

two boys came to him and informed him that they had seen unknown body floating in the water. The first informant then informed the same to Police Patil. He alongwith police he went to the place of the incident and with the help of employees of Irrigation Department and villagers, who had gathered there, retrieved the body from the water. There were several injuries on the body. The said body was sent for post mortem and subsequently identity of deceased was established and his name was disclosed as Kiran Harishchandra Jadhav. Hence, the first information report was lodged against an unknown person for committing death of the said person. Subsequently, in the course of the investigation, the Applicant came to be arrested.

4. It is to be noted that the Applicant was arrested mainly on the basis of the extra judicial confession of Akshay Kadam. Said Akshay Kadam has stated that on 21.10.2017 he alongwith the Applicant and others at about 11.00 a.m. having drinks near one stone quarry/mine and that at about 2.00 p.m. the Applicant had received a phone call from the co-accused stating that the deceased Kiran Jadhav owed him money and that he was to be killed. The statement of this witness further indicates that on the same date at about 5.00 p.m. they had gone to Koyte square and that the co-accused had come to the

place of the incident and that the Applicant had proceeded on Pulsor motorcycle of Sachin. He claims that on the next date the Applicant appeared to be very quiet. When he questioned the Applicant, he told him that he alongwith the co-accused Ashya @ Asif Mohammad Shaikh and Amol had committed murder of Manager/watchman Kiran Jadhav.

5. Statement of Akshay Kadam was recorded more than two months after the date of the incident. Apart from the said statement there is no other prima facie material to show the involvement of the Applicant in the aforesaid crime. Considering the nature of the allegations against the Applicant and also considering the fact that the charge sheet is filed, this is not a fit case to detain the Applicant in custody pending trial.

6. Hence, the following order:-

(i) The Bail Application is allowed.

(ii) The Applicant shall be released on bail on furnishing bail bonds of Rs.50,000/- with one or two sureties in the like amount to the satisfaction of the Additional Sessions Judge, Pune.

(iii) The Applicant shall furnish his permanent as well as

temporary address, if any and his contact details to the concerned Investigation Officer.

- (iv) The Applicant shall not change is residential address without prior intimation to the Investigation Officer.

(SMT. ANUJA PRABHUDESSAI, J.)

Megha
Shridhar
Parab

Digitally signed
by Megha
Shridhar Parab
Date:
2018.08.31
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