

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

BAIL APPLICATION NO.1103 OF 2018

Dattatray Nivrutt Netake		Applicant
<u>Vs.</u>		
The State of Maharashtra		Respondents

Mr. Vikas B. Shivarkar for the Applicant.
Ms. Veena Shinde, APP for the State.
Mr. V.B. Sarjine, PN, Khed Police Station, Pune.

Coram : *Smt. Sadhana S. Jadhav, J.*
Date : *2nd August, 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 4th July 2017 in Crime No.229 of 2017, registered at Khed Police Station, Pune, for the offences punishable under Sections 143, 147, 148, 149, 307, 302, 324, 323, 504 and 506 of the Indian Penal Code. The investigation is completed and the charge-sheet is filed.

3 It is the case of the prosecution that the on 24th June 2017, Smt.Mangal Madhukar Netake lodged a report at Khed Police Station alleging therein that she resides with her husband and her son Prafull. That on, 23rd June 2017 at about 8.00 p.m. she wanted to remove clothes which she had left for drying outside the house. There was no electricity supply and therefore Prafull i.e. her son had used the cellphone lights. At that time the Netake family residing opposite their house had raised an objection so much that Shubham Netake had questioned her son Prafull as to why he was using the flash light. Before Prafull could give any explanation, Shubham Netake started abusing him in filthy language. They had also abused the complainant and therefore she had complained to her husband about the same. They decided to question Shubham Netake and others as to why they were being abused and therefore they had reached their house. The moment they reached their house Shubham Netake, Akshay Netake, the present applicant and the women folks in the family started assaulting the complainant and her family. That, her husband had sustained several grievous injuries and therefore he was rushed to the hospital. Her husband was admitted in the ICU. He succumbed to the injuries on 1st July 2017. The body was sent for autopsy. The post-mortem notes indicate the cause of death as Septicaemia. After

the demise of husband of the first informant, Section 302 of the Indian Penal Code was added.

4 The supplementary statement of the first informant was recorded on 14th July 2017. She has given further details in respect of the incident. She has disclosed that her husband was assaulted by Akshay Netake and Shubham Netake, whereas the present applicant had abused and assaulted them with fist and kick blows. It is specifically alleged that Shubham Netake was armed with an axe, whereas, Akshay Netake was armed with an iron rod.

5 On perusal of the Post-mortem notes, it is clear that the deceased had sustained as many as 17 surfaced wounds. The deceased had to undergo an operation. The cause of death is shown as Septicaemia in the operated case of head injury.

6 The learned counsel for the applicant vehemently submits that, at this stage, it would be necessary to demarcate the role attributed to each of the accused. The women accused have been enlarged on bail. It is, further, submitted that the applicant had not shared the common

intention or common object with Akshay Netake and Shubham Netake and, therefore, he deserves to be enlarged on bail.

7 Taking into consideration narration of the first informant in the supplementary statement and the papers of investigation, the applicant deserves to be enlarged on bail. 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.30,000/- with one or more solvent sureties in the like amount.
- iii) The applicant shall report to the concerned Police Station on first Sunday of each month till framing of charge.
- iv) Within four weeks from the date of release, the applicant shall give an Undertaking to the investigating agency that he would attend each and every scheduled date at the time of trial. Upon failure to attend any two consecutive dates, the prosecution would be at liberty to file an application under Section 439(2) of Cr.P.C.
- v) Application is allowed and disposed off accordingly.

(*Smt. Sadhana S. Jadhav, J*)