

Anand

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

**BAIL APPLICATION NO. 1215 OF 2018**

Kondiba Bhiva Barkade

.Applicant

Vs.

The State of Maharashtra

.Respondent

Mr. V. B. Shivarkar, Advocate, for the Applicant

Mr. Y. Y. Dabke, APP, for the Respondent – State

Mr. M. N. Thingale, P. C., Ranjangaon MIDC Police Station, Pune  
(Rural)

**CORAM : SMT. SADHANA S. JADHAV, J.**

**DATE : 05.07.2018**

**P.C.**

. Heard learned counsel for the Applicant and the learned  
APP for the Respondent – State.

2. This is an Application under Section 439 of the Code of Criminal Procedure. The Applicant herein is arrested on 07.03.2018 in C. R. No. 197 of 2017, registered at Ranjangaon MIDC Police Station, Pune (Rural) for the offences punishable under Sections 302, 109, 323, 504, 506 r/w 34 of the Indian Penal Code. The investigation is completed and charge-sheet is filed. The present Applicant happens to be the son-in-law of Sahebrao Sala Thorat. That the present Applicant

was married to Balabai 10-12 years ago. The sister of the Complainant namely Bhanubai was residing with the Complainant, as his mother was ill. That the Applicant was in the business of sale and purchase of Sheeps / Goats. On 19.12.2017, a discordant note had struck between the present Applicant and Balabai and hence, she had been to her maternal house and was staying with her parents. On 20.12.2017, the cousin of the present Applicant namely Ashok Devram Barkade and his paternal cousin Dadabhau Dagdu Bachkar had been to fetch Balabai to her maternal house. Balabai had refused to go. However, Ashok and Dadabhau had informed that they have specific instructions from the present Applicant that they shall bring Balabai to his house under any circumstances even by exercising coercive action. There was an altercation. The two persons were assaulting the brother of Balabai. They had lifted a stone to assault him and Bhanubai had intervened to save her nephew. The stone had fallen on her chest. She was more than 62 years old at the time of incident and that Bhanubai had succumbed to the injury instantly.

3. Learned counsel for the Applicant submits that the Applicant was not present at the scene of offence when Bhanubai was assaulted by Ashok and Dadabhau. The charge against the Applicant

would be under Section 109 of the Indian Penal Code. Learned counsel for the Applicant submits that in fact, the Applicant had asked his cousin to fetch Balabai under any circumstances. Unfortunately, there was a quarrel with her family members.

4. Perused papers of investigation. The Post Mortem Notes also show that the deceased had sustained abrasion on her chest and on her clavicle. There was a fracture of 2<sup>nd</sup> & 3<sup>rd</sup> ribs. There was blood clot below sternum & laceration of left lung. The cause of death is cardiorespiratory arrest due to haemorrhage shock due to internal bleeding due to chest trauma.

5. In the aforesaid circumstances, the Applicant, who was not present on the spot at the time of incident deserves to be enlarged on bail.

6. Hence, I proceed to pass the following order.

**ORDER**

(i) The Application is allowed;

(ii) The Applicant be enlarged on bail on furnishing P. R. Bond in the sum of **Rs.15,000/-** with one or more solvent sureties in the like

amount;

(iii) The Application is disposed of accordingly.

**(SMT. SADHANA S. JADHAV, J.)**