

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1844 OF 2017***

Akash Krishna Udanshu
Versus
The State of Maharashtra

...Applicant

...Respondent

Mr.Satyavrat Joshi, for the applicant.
Ms. S.S.Kaushik,APP, for the State.
Mr. Manik Doke, PSI, Hadapsar Police Station present.

***CORAM : SMT. SADHANA S.JADHAV, J.
DATE : 23rd January, 2018.***

P.C. :

1. Heard. This is an application under section 439 of Cr.P.C. The applicant herein is arrested on 19.6.2016 in Crime No.390 of 2016 registered at Hadapsar Police Station, District Pune for the offences punishable under Sections 363, 302, 342, 364, 365, 301 read with section 34 of the Indian Penal Code.
2. It is the case of the prosecution that on 18.6.2016, Raghunandan Thakur lodged a report at the police station that his wife had left with their child along with one Nikita Kangane and Laxmi @ Pinki Jadhav. She has not returned home. According to the complainant, Nikita and Laxmi had

induced his wife to leave the house along with them and since then her whereabouts are not known. On the basis of the said report, Crime No.390 of 2016 was registered against Nikita and Laxmi for the offences punishable under Sections 363 and 366 of the Indian penal Code. The principal accused Nikita was arrested on 18.6.2016. She had given a memorandum under section 27 of the Indian Evidence Act. She had disclosed to the police in the said memorandum that on 17.6.2016, they had induced Madhu Thakur to accompany them for buying diapers for the newly born child. Thereafter, at about 2.30 p.m., they had confined her in the room of Nikita. They had gagged her. They had thrown chilli powder in her eyes. At that time, the present applicant and his mother had tied the hands and legs of the deceased. She was covered with the mosquito net and was smothered to death by Nikita and Laxmi. The dead body was discovered at the instance of Nikita.

3. Upon perusal of the charge-sheet, It is clear that besides the omnibus statement in the memorandum of the co-accused, no specific role has been attributed to the present applicant and he is in custody for more than 1-1/2 years. It is submitted that his mother is also in custody.

4. The learned counsel for the applicant vehemently submits that

the disclosure made in the memorandum statement is not an admissible evidence and hence the prosecution cannot place implicit reliance upon the same for the purpose of denying bail to the applicant. Upon perusal of the papers of investigation and the fact that besides a bare statement in the memorandum, there is no act attributed to the present applicant. Hence, the applicant deserves to be enlarged on bail.

5. The above observations are restricted to an application under Section 439 of Cr.P.C. and the same shall not be taken into consideration for the purpose of quashing of FIR, discharge application or at the time of trial.

ORDER

- (i) The application is allowed.
- (ii) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or more solvent sureties in the like amount.
- (iii) The applicant shall not enter into the jurisdiction of Hadapsar Police Station till the conclusion of the trial.

The application stands disposed of.

(SMT. SADHANA S.JADHAV, J.)