

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

BAIL APPLICATION NO.1979 OF 2018

Rajaram Gunda Kagale	...Applicant
Versus	
The State of Maharashtra	...Respondent

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Mr. P.R. Arjunwadkar for the Applicant.
Mrs. J.S. Lohokare, APP for the Respondent-State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 11th OCTOBER, 2018.

P.C.:-

This is an application under Section 439 of the Cr.P.C. filed by the aforesaid Applicant, who is facing trial in Sessions Case No.22 of 2018 pending on the file of the learned Additional Sessions Judge, Kolhapur. Said case arises from C.R. No.231 of 2017 registered with Kagal Police Station, District-Kolhapur, for offence punishable under Section 302 of the Indian Penal Code, 1860.

2. Heard Mr. P.R. Arjunwadkar, the learned counsel for the Applicant and Mrs. J.S. Lohokare, the learned APP for the Respondent-State. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. The aforesaid crime was registered pursuant to the FIR lodged by one Raju Jamadar. A perusal of the FIR prima facie reveals that said Raju had received a phone call that a body of a lady was lying in the bushes at Laxmi Tekdi. He proceeded to Laxmi Tekdi and saw that a body of an unknown lady was lying in bushes. He therefore lodged the FIR against an unknown person for causing death of the said unknown lady. Body of the said lady was sent for post mortem. The post mortem report reveals that there was a fracture of skull from midline to left parietal aspect of skull and that underline brain matter was exposed. There was a linear midline skull fracture extending upto occipital region and there was fracture of chin bone.

4. In the course of the investigation, the dead body came to be identified as that of Anita, wife of Rajaram Sadashiv Kagale. The statement of said Rajaram was recorded. He claimed that his wife had left the house on 11.11.2017 at about 10.00 a.m. and had not returned. In the supplementary statement he stated that the Applicant was his neighbour and that Anita had complained to him that the Applicant used to ogle at her and make obscene gestures. The statement of Mantesh, brother of the deceased also reveals that said Anita had told him that the Applicant used to come to her house in the

absence of her husband and used to constantly harass her.

5. The statement of Maruti Dhangar prima facie reveals that the deceased was seen in the company of the Applicant on 11.11.2017 between 11.00 to 11.30 a.m. He had seen them proceeding towards Laxmi Tekdi on motorcycle bearing No.MH-09-AY-1455, i.e. towards the place where the body was found. The records further reveal that after the arrest of the accused he had made a disclosure statement, pursuant to which the purse of deceased Anita was recovered from a bush at the river bank. Said purse contained Aadhar card of Anita as well as Aadhar cards of her husband-Rajaram Sadashiv Kagale and her son-Pranav Kagale.

6. The prosecution has also relied upon two other circumstances viz. recovery of stone and clothes of the accused as per the disclosure statement made under Section 27 of the Evidence Act. The learned APP concedes that the CA report is not yet received and there is no prima facie material to show that the clothes and stones were stained with blood. Similarly, the circumstance of extra judicial confession by the Applicant to his wife and son and brother-in-law cannot prima facie be relied upon as in the statement under Section

164 of the Cr.P.C. recorded by the learned Magistrate, these witnesses have denied that the Applicant had made any such statement.

7. Nevertheless, the material on record, prima facie reveals that the Applicant was a neighbour of the deceased and that he used to visit her house in the absence of her husband and son. He used to leer at her. There is also material on record to show that the deceased had left the house on 11.11.2017 at about 10.00 a.m. On the same day later at about 11.30 a.m. she was seen going at Laxmi Tekdi alongwith the Applicant. The purse of the deceased with her Aadhar card and those of her husband and son were recovered at the instance of the Applicant. These circumstances prima facie point at the involvement of the Applicant in the said crime, which is of serious nature. Releasing the Applicant may prejudice fair trial and thus thwart the course of justice.

8. Under the circumstances, the application is dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)