

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

**BAIL APPLICATION NO. 2001 OF 2018**

Ashok Devram Barkade

....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Aniket Nikam a/w. Mr. Aashish Satpute for the applicant.

Mr. S.S. Pednekar, APP for the State.

**CORAM: SMT. ANUJA PRABHUDESSAI, J.**

**DATED: 12<sup>th</sup> OCTOBER, 2018.**

**P.C.:**

. This is an application under Section 439 of Criminal Procedure Code filed by the aforesaid applicant, who is facing trial in Sessions Case No.262/2018 pending before the Additional Sessions Judge, Pune. The said case arises from C.R.No.197/2017 registered with Ranjangaon MIDC Police Station, District Pune for offences punishable under sections 302, 109, 323, 504, 506 r/w. 34 of Indian Penal Code.

2. Heard Mr. Aniket Nikam, learned counsel for the applicant. He contends that the material on record does not prima facie indicate that the applicant had intention of causing death of the deceased Bhanubai. He has further submitted that the offence alleged to be committed by

the applicant would not be covered under the provisions of section 302 of the Indian Penal Code. He submits that the applicant is in custody since 19/02/2018 and considering the nature of the allegations levelled against the applicant, this is a fit case to release him on bail.

3. Mr. S.S. Pednekar, learned APP submits that the first information report prima facie indicates that the applicant was instructed by the husband of the deceased to bring her home either alive or dead. He, therefore, contends that the applicant had gone to the house of the deceased with an intention of causing her death. He further submits that the nature of injuries sustained by the deceased also indicate that the applicant had intention of causing the death of the deceased.

4. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties.

5. The aforesaid cime was registered pursuant to the first information report lodged by Sahebrao Sada Thorat, the brother of the deceased Bhanubai. The first information report prima facie reveals that on 19/12/2017, Balabai, the daughter of the first informant had come to her parental home due to a quarrel with her husband Kondiba.

On 20/12/2017, at about 06:00 p.m., the applicant, who is the cousin of said Kondiba Barkade and one Dadabhau Dagdu Bachkar came to the house of the first informant and told Balabai to return to her matrimonial home. The son of the first informant told them not to take Balabai at night. He told them that the husband and father-in-law of Balabai could take her home on the next date. The first informant claims that the applicant and told them that Kondiba Barkade had sent them to bring back Balabai either dead or alive and that they would not leave the place without taking Balabai. The records prima facie reveal that there was an altercation between the applicants and the son of the first informant. Bhanubai, the sister of the first informant intervened and tried to prevent time from fighting. The records reveal that the applicant had flung a stone, which hit on the chest of Bhanubai and she fell down. Said Bhanubai was taken to the hospital and she was declared dead.

6. The records prima facie indicate that the applicant and other co-accused had gone to the house of the first informant to take Balabai to her matrimonial house. They were not armed with any weapon and they had no animosity with Bhanubai. The records prima facie indicate that there was resistance on the part of the first informant and his sons

in sending Balabai to her matrimonial home and this resulted in an altercation and quarrel. The records prima facie indicate that the applicant had picked up a stone from the spot and flung the same at Bhanubai who had tried to intervene. The said stone hit against the chest of Bhanubai. The post mortem report reveals that said Bhanubai had sustained an abrasion on the chest. The Doctor had opined that the cause of death was due to : *Cardio-respiratory arrest due to hemorrhagic shock due to internal bleeding due to chest trauma.*

7. The material on record does not prima facie indicate that the applicant had flung the stone with an intention of causing death or with knowledge that it would cause death. The applicant is a permanent resident of Parner, Ahmednagar. There are no chances of the applicant absconding or thwarting the course of justice. The applicant has no criminal antecedents.

8. Considering all the above facts and circumstances, in my considered view, this is a fit case for grant of bail. Hence, the Bail Application is allowed on following terms and conditions :-

(a) The applicant who is arrested in C.R.No.197/2017 registered with Ranjangaon MIDC Police Station, District Pune is ordered to be

released on bail on furnishing bail bonds of Rs.50,000/- (Rupees Twenty Fifty Thousand) with one or two solvent sureties in the like amount. One of the surety shall be a local surety.

(b) The applicant shall remain present before the Senior Police Inspector, Ranjangaon MIDC Police Station on 1<sup>st</sup> Monday of every month until further orders.

(c) The applicant shall furnish his permanent address and temporary address, if any, and his contact details to the concerned Court.

(d) The applicant shall not change his residential address without prior intimation to the concerned Court.

(e) The applicant shall not interfere with the first informant or the other witnesses in any manner and shall not tamper with the evidence.

**(SMT. ANUJA PRABHUDESSAI, J.)**