

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

BAIL APPLICATION NO. 2067 OF 2018

Rupesh @ Bhureya Suresh Patil

....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Rameshwar N. Gite for the applicant.

Mrs. J.S. Lohokare, APP for the State.

Mr. Aankush D. Borate, API, Malegaon Police Station, Nashik Gramin,
present.

**CORAM: SMT. ANUJA PRABHUDESSAI, J.
DATED: 26th OCTOBER, 2018.**

P.C.:

. This is an application under Section 439 of Criminal Procedure Code filed by the aforesaid applicant, who has been arrested in C.R.No.I-98/2018 registered at Malegaon Taluka Police Station, District Nashik for offences punishable under sections 302, 201, 120B of the Indian Penal Code.

2. Heard Mr. Rameshwar N. Gite, learned counsel for the applicant and Mrs. J.S. Lohokare, learned APP for the State. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties.

3. The first information report is lodged by Ganesh Pardeshi, brother of deceased Yogesh. The first information report dated 16/04/2018 prima facie reveals that his brother Yogesh had gone missing and that he had reported to the police that his brother was missing since 23/05/2015. He claims that in April, 2018 the Assistant Police Inspector attached to Crime Branch, Nashik inquired about his brother Yogesh and later he showed him photograph of a dead body. The first informant identified the dead body as that of his brother Yogesh. The first informant was informed that his brother Yogesh was murdered by the applicant and others.

4. The only incriminating material as against this applicant is extra judicial confession made to one Ajay Patil and Amol Sonawane. Both these witnesses have claimed that some time in the month of June, 2015, they had heard some people talking about the murder of Yogesh. They claim that in June, 2015, the applicant had come to the shop and that he had disclosed that on 30/05/2015, his friend Yogesh (deceased) had taken him to Parola by his Maruti Omni car. The co-accused Baban and Vakil had joined them at Parola bus stand and that they had proceeded towards Zodage. They claim that the applicant had told them that on the way, Baban and Vakil had consumed alcohol

and that Baban Patil had assaulted said Yogesh by a wooden stick. Said Yogesh was unconscious and that they threw his body in a well in Zodage village.

5. It is to be noted that the statements of these two witnesses are exculpatory. Furthermore, the statements were recorded after about three years. They had not disclosed the said incident to any other person. Apart from these statements, there is no other prima facie material to show the involvement of the applicant in the aforesaid crime.

6. Mrs. J.S. Lohokare, learned APP submits that the investigation is completed and charge sheet is already filed. The applicant is in custody since 24/04/2018 and his presence is no longer required in custody for the purpose of investigation. The applicant is a permanent resident of village Mangrul, Tal. Parola. There is no possibility of the applicant absconding and/or thwarting the course of justice.

7. The learned APP submits that the applicant has criminal antecedents and that he is involved in committing three different crimes. Suffice it to say that in the absence of any prima facie material

to show the involvement of the applicant in the present crime, he cannot be detained only on the ground of criminal antecedents.

8. Considering the above facts and circumstances, in my considered view, the applicant is entitled for bail. Hence, the Bail Application is allowed on following terms and conditions :-

(a) The applicant who is arrested in C.R.No.I-98/2018 registered at Malegaon Taluka Police Station, District Nashik is ordered to be released on bail on furnishing bail bonds of Rs.50,000/- (Rupees Fifty Thousand) with one or two solvent sureties in the like amount.

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

(c) The applicant shall not change his residential address without prior intimation to the Investigation Officer and to the concerned Court.

(d) The applicant shall not interfere with the witnesses and shall not tamper with the evidence in any manner.

(e) The applicant shall report to the Investigation Officer or in his absence to the Senior Police Inspector, Malegaon Police Station, Nashik Gramin on 01st and 03rd Monday of every month.

(SMT. ANUJA PRABHUDESSAI, J.)