

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

BAIL APPLICATION NO.2071 OF 2017

Riyaz Faijoddin Khatib Applicant

Vs.

The State of Maharashtra Respondent

Mr. Nitesh J. Mohite i/by Mr. Jaydeep D. Mane for the Applicant.
Mr. S.R. Agarkar, APP for the State.

Coram : Smt. Sadhana S. Jadhav, J.
Date : 5th January, 2018

P.C.:

1 Heard the learned counsel for the applicant and the learned APP. Perused the papers of investigation.

2 This is an application under Section 439 Code of Criminal Procedure. The applicant herein is charge-sheeted for the offence punishable under Section 302 Indian Penal Code, registered at Mangalwedha Police Station in Crime No.424 of 2016.

3 It is the case of the prosecution that Faijuddin Saheb Hussain Khatib and his wife Shabera Khatib, who happen to be

parents of the present applicant were residing in the agricultural land. That on 23rd August 2016, one Mujammil Kazi had informed that the couple had met with homicidal death in their residential house. Initially, A.D. No. 49 of 2016 was registered. In the course of investigation, it had transpired that the applicant was passing through a stage of financial stringency. That the applicant was insisting upon his parents to sell their cattle, sheep and goats and also the land. However, the mother of the applicant had not agreed the same. It had also transpired that it was not a case of accidental death but it was a homicidal death. The applicant was arrested on 24th August, 2016. There was recovery of sickle and hoe at the instance of the applicant under Section 27 of Indian Evidence Act.

4 Learned counsel for the applicant submits that there is no cogent and convincing material to implicate the accused. It is also submitted that the recovery of weapons has been foisted and therefore the applicant deserve to be enlarged on bail.

5 Perused the papers of investigation. More particularly the statements of sister of the applicant, the wife of the applicant and the daughter of the applicant. It can be inferred that on 22nd August, 2016, the applicant had taken dinner for his old aged parents. On 23rd August, 2016, early in the morning, at about 5.00 to 6.00 am, the applicant had been to the agricultural land on the pretext of

starting the motor for giving water to the crops. Thereafter, he had returned home at about 8.00 am. It can be seen that the deceased had not come into contact with anybody else after 6.00 am. The post mortem notes would indicate that rigor mortis was well marked in whole body and p.m. lividly present over buttock and back. The time of death is determined between 1.00 am. to 3.00 am. On 22nd August, 2016, the applicant was the last person, who had met his parents and in the morning they were found dead. The applicant had been to water the crops for the first time on 23rd August, 2016. It, therefore appears that the applicant could be the person who has caused the homicidal death of his parents. In view of this, the application being sans-merits, stands rejected.

6 However, it is made clear that the observations made hereinabove are restricted to the application under Section 439 Code of Criminal Procedure and the learned Sessions Judge shall not be influenced by the same.

(Smt. Sadhana S. Jadhav, J)