

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

BAIL APPLICATION NO.2238 OF 2018

Mahadev Kondiba Mhaske	...Applicant
Versus	
The State of Maharashtra	...Respondent

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Mr. Ganesh Bhujbal for the Applicant.
Mrs. J.S. Lohkare, APP for the Respondent -State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 3rd SEPTEMBER, 2018.

P.C.:-

This is an application filed under Section 439 of Cr.P.C. by the aforesaid Applicant, who is facing trial in Sessions Case No.90 of 2018 pending before the learned Additional Sessions Judge, Baramati for offence punishable under Section 302 r/w. 34 of the IPC.

2. Heard Mr. Ganesh Bhujbal, the learned counsel for the Applicant and Mrs. J.S. Lohkare, APP for the Respondent-State.

3. Said sessions case arises out of C.R. No.95 of 2018 registered with Indapur Police Station, District-Pune, pursuant to the FIR lodged by the Applicant himself against an unknown person for

causing death of his nephew Manohar Mhaske. The FIR prima facie reveals that on 12th February, 2018 at about 7.00 a.m. the Applicant had received a phone call from one Somnath Raut stating that said Manohar Mhaske was lying by the road leading to Nimgaon Mahadevnagar. When the first informant visited the place of the incident he found that Manohar had sustained stab injuries on his head. He therefore lodged the FIR against unknown person. In the course of the investigation it was revealed that the Applicant was having illicit relation with one Reshma Bhong. The statement of the father of the deceased reveals that the Applicant was annoyed with the deceased as the deceased had informed his wife about the illicit relationship between the Applicant and said Reshma Bhong. Father of the deceased also stated that the deceased was himself having illicit relationship with wife of Ankush Bhong and said Ankush was also not in cordial relationship with the deceased. Mother of the deceased also stated that the Applicant and Ankush had sold pomegranate produce worth Rs.1,76,000/- and that when the deceased had asked them to give the accounts they were annoyed and threatened to cause his death. Based on the statement of the parents of the deceased, the Applicant as well as Ankush came to be arrayed as accused.

4. The records prima facie reveal that apart from the suspicion raised by the parents of the deceased there is no other prima facie material to show the involvement of the Applicant in commission of the present crime. It is seen that there is no recovery at the instance of the Applicant. Though his clothes have been attached, prima facie the same do not appear to have been stained with blood. It is also to be seen that co-accused Ankush Bhong against whom similar allegations have been made has been released on bail. Furthermore, the investigation is completed and charge sheet is filed. Considering the above facts and circumstances, and also the fact that the trial is not likely to commence immediately, in my considered view this is not a fit case to detain the Applicant pending trial.

5. Under the circumstances and in view of discussion supra, the application is allowed on following terms and conditions:-

- (i) The Applicant, who is facing trial in Sessions Case No.90 of 2018 shall be released on bail on furnishing bail bonds of Rs.50,000/- with one or two sureties in the like amount to the satisfaction of Additional Sessions Judge, Baramati.

- (ii) The Applicant shall furnish his permanent as well as temporary address, if any and his contact details to the learned Additional Sessions Judge, Baramati as well as the Investigation Officer.
- (iii) The Applicant shall not change his residential address without prior intimation to the Additional Sessions Judge, Baramati.
- (iv) The Applicant shall stay away from village Bharnewadi for a period of six months or till further order.
- (v) The Applicant shall not interfere with the witnesses or tamper with the evidence in any manner.

(SMT. ANUJA PRABHUDESSAI, J.)