

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

BAIL APPLICATION NO.2285 OF 2018

Bhimrao Bhagwan Pawar	.. Applicant
Vs.	
State of Maharashtra	.. Respondent

.....
Mr.Pankaj Pandey, Advocate for the Applicant.
Mr.R.M. Pethe, APP for the Respondent – State.
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CORAM : PRAKASH D. NAIK, J.

DATED : DECEMBER 22, 2018.

P.C. :

This is an application for bail in connection with C.R.No.I-361 of 2017, registered with Rabale MIDC Police Station, Navi Mumbai, on 2nd December, 2017, for the offence punishable under Section 302 read with 34 of Indian Penal Code.

2 The prosecution case is that the informant had alleged that accused no.1 and unknown relatives has assaulted the victim. The said complaint was lodged on 1st December, 2017. Subsequently, First Information Report was registered on 2nd December, 2017. There were disputes between the deceased and his wife and it is alleged that he was subjected to assault by the

wife and other relatives. Applicant is the brother in law of the deceased. Applicant is arrested on 30th November, 2017.

3 It is the case of the prosecution that the wife of the deceased is of quarrelsome nature. There were disputes between her and the deceased, who was her husband. She used to harass the deceased. Applicant is the brother of co-accused Asha Kale. Even he is used to harass the deceased. On 30th November, 2017, there was a quarrel between the deceased and sister of the applicant. Hence, the brother of the complainant had visited her house. Thereafter he left the complainant's house. Complainant learnt that he was taken to Ghansoli on 1st December, 2017. It was reported that the complainant's brother had died. The information was given to police. Deceased had sustained injuries on his person. He died due to strangulation. Subsequently, statements of several witnesses were recorded and charge-sheet has been filed.

4 Learned advocate for the applicant submitted that there is no direct evidence involving the applicant in the crime. There is no independent witness to the incident. Nobody has seen applicant at the scene of offence on the day of incident. The

prosecution is relying upon certain statements, which purportedly relates to the past incidence of assault on the deceased. There were disputes between the sister of the applicant and her husband (deceased). Applicant is in custody from the date of arrest. Merely on inferences the applicant cannot be subjected to custody for indefinite period.

5 Learned APP submitted that there were continuous disputes between the deceased and his wife. Statement of witnesses shows that the victim was being harassed continuously by the family of his wife. Applicant is brother of Asha Kale, who is the wife of deceased. Deceased was subjected to assault and harassment. Witnesses have stated that even the applicant used to assault the deceased. It is, therefore, submitted that the application be rejected.

6 The case is based on circumstantial evidence. It is alleged that there is dispute between the deceased and his wife, who was supported by her family members. There is no direct evidence indicating that applicant was found in company of the deceased prior to the incident. Prosecution is relying upon the

statements, which relates to the past incident. It is inferred that applicant and the co-accused have committed murder of the deceased on account of dispute with his wife. There is no other corroborative evidence to establish the presence of the applicant in the vicinity of the crime. Investigation is completed and charge - sheet has been filed. Applicant is in custody for almost for a period of one year. In the circumstances, case of grant of bail is made out.

7 Hence, I pass the following order :

:: ORDER ::

- (i) Bail Application No.2285 of 2018, is allowed;
- (ii) Applicant is directed to be released on bail in connection with C.R.No.I-361 of 2017, registered with Rabale MIDC Police Station, Navi Mumbai on his furnishing P.R. Bond in the sum of Rs.25,000/-, with one or more sureties in the like amount;

- (iii) Applicant is directed to attend Rabale MIDC Police Station, Navi Mumbai, once in a month on first Saturday of the month between 11:00 a.m. to 01:00 p.m., till further orders;
- (iv) Applicant shall not tamper with the evidence;
- (v) Bail Application stands disposed of.

(PRAKASH D. NAIK, J.)