

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 2254 OF 2017***

Dilip Gopal Kale

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr.Nitin Babgonda Patil, for the applicant.

Mr.S.H.Yadav,APP, for the State.

CORAM : SMT. SADHANA S.JADHAV, J.

DATE : 17th January, 2018.

P.C. :

1. Heard. This is an application under Section 439 of Cr.P.C. The applicant herein was arrested on 27.4.2015 in Crime No.210 of 2015. The investigation is completed and charge-sheet is filed on 24.7.2015 against the applicant and others for the offences punishable under Sections 302, 201, 120B of the Indian Penal Code.

2. It is the case of the prosecution that on 24.4.2015, Police Patil of the village Waki Badrukh lodged a report at the police station that a dead body of an unidentified person was lying by the road side. It appears to be a case of homicidal death. On the basis of the said report, an offence was

registered and the law was set into motion.

3. In the course of investigation, it had transpired that the dead body was of Balu Keval. It had further transpired that the present applicant had illicit relations with the wife of deceased Balu. The investigating agency had recorded the statement of several witnesses. On 30.4.2015, they had recorded the statement of one Narayan Jagdale, who had disclosed that on 23.4.2015, some four persons had come to his house with their motorcycles and had requested him to allow them to park their motorcycles in front of his house since one of his friends was ill and was unable to drive the motorcycle. That they were proceeding to Alandi. The motorcycle was parked by the present applicant and he is duly identified by the said witness. The police had also recorded the statement of Raju Keval who happens to be the cousin of the deceased. He has disclosed that on 23.4.2015, he had seen his cousin Balu in the company of the present applicant and one Ganesh Vare and that they were on way to Bhimashankar. He had also enquired with them and at that time the deceased was a pillion driver on the motorcycle of the present applicant.

4. The learned counsel for the applicant submits that in fact, the dead body was identified by the cousin. The learned counsel submits that

in fact, Raju Keval had been to the mortuary and had identified the dead body of his cousin and at that relevant time he had not disclosed that he had seen the applicant in the company of the deceased on 23.4.2015 and therefore according to the learned counsel for the applicant, it is a case of circumstantial evidence and the applicant has been falsely implicated. The investigating officer has recorded the statement of all the witnesses and therefore the applicant deserves to be enlarged on bail.

5. The learned APP submits that in the present case, the charge is framed and on 25.1.2018, the witnesses have been summoned for adducing evidence and, therefore, according to the learned APP, it would not be appropriate to consider the application on merits. It is also submitted that there is cogent and convincing material to show that the applicant was last seen in the company of deceased and thereafter the deceased has not been heard of and the cellphones were switched off.

6. On perusal of the compilation of charge sheet and the submissions advanced across the bar, this Court is of the opinion that this will not be a case for grant of bail as there is sufficient independent material to indicate that the applicant was last seen in the company of the deceased on 23.4.2015 and thereafter on 24.4.2015 the dead body of Balu was found

by the side of the road at which the cousin had seen the applicant in the company of the deceased. Hence, the application being sans merits, rejected.

7. It is made clear that the observations hereinabove are restricted to an application under Section 439 of Cr.P.C.

(SMT. SADHANA S.JADHAV, J.)