

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

BAIL APPLICATION NO.2442 OF 2017

Abhay Digambar Kate		Applicant
<u>Vs.</u>		
The State of Maharashtra		Respondent

**WITH
CRIMINAL APPLICATION NO.65 OF 2018**

Mr. Amit Digambar Kate		Applicant/Intervenor
<u>In the matter between</u>		

Abhay Digambar Kate		Applicant
<u>Vs.</u>		
The State of Maharashtra		Respondent

Mr. S.V. Marwadi i/by Mr. Rushit Thakkar a/w Trupti Khamkar for the Applicant.

Mr. Kuldeep Patil i/by Vaibhav V. Ugle for Intervenor.
Ms. S.S. Kaushik, APP for the State.

Mr. U.D. Yajnawale, Valchand Nagar Police Station, Pune Rural.

Coram : Smt. Sadhana S. Jadhav, J.
Date : 22nd February, 2018

P.C.:

1 Heard the learned counsel for the applicant and the learned APP.

2 This is an application under Section 439 Code of Criminal Procedure. The applicant herein is arrested on 17th May, 2017 in Crime No.144 of 2017, registered at Walchand Nagar Police Station, Pune for the offences punishable under Sections 302, 201 of Indian Penal Code. The investigation is completed and the charge-sheet is filed.

3 This is the case of patricide. It is the case of the prosecution that on 13th May, 2017, the present complainant, Abhay Digambar Kate lodged a report at the police station contending therein that on 12th May, 2017, in the morning at about 5.15 am., his father Digambar had been to the agricultural land to reconnect the broken pipe. That he could not reconnect the pipe single-handedly, he returned home and went to the agricultural land alongwith Thapa, who was working as agricultural labour. Thereafter at about 9.00 am., the complainant had also been to the agricultural land. He had seen that the flow of water was obstructed and therefore he attempted to call upon his father. He could not meet his father, therefore, he returned home and proceeded to Pahunewadi to attend engagement ceremony of his relative. There he received a phone call from his nephew informing him that the father of the complainant namely Digambar has not yet returned home for lunch. Thereafter the applicant had returned home and taken cousin Sanjay Kate to the agricultural land and while they were searching for him, they saw

the dead-body of his father Digambar flowing in the canal water. Therefore, he approached the police station. Apparently it was a case of homicidal death. On the basis of the report filed by the complainant, Crime No. 144 of 2017 was registered against the unknown persons. The investigation was set in motion.

4 On 16th May, 2017, the police had recorded statement of Yuvraj Shelke. He had disclosed to the police that on 12th May, 2017 at about 9.10 am., he was returning from his agricultural land by the side of the canal. He saw the present applicant coming out of the water of canal and blood was spread in the water. His clothes were drenched. He had seen dead-body flowing into the water. They had enquired with the applicant but he himself was perturbed and did not answer. Soon thereafter, the applicant reached to his motorcycle, changed his clothes and went to the house. Thereafter the applicant had called upon Yuvraj on his cellphone and threatened him of dire consequences in the eventuality that if he discloses the same. The police had also recorded the statement of Jitendra Shelke, who had disclosed that at about 9.00 to 9.15 am. on 12th May, 2017, he had seen the applicant coming out of the water of the canal and also had seen the dead-body flowing in the water. The police had also recorded the statement of Arati Amit Kate, who happens to be wife of brother the applicant. She had disclosed that on 12th May 2017 at about 10.00 am. the applicant had hurriedly

reached home. He was washing his clothes. Normally he never washed his clothes. Her mother-in-law had called him for lunch, however, the applicant had disclosed that he would first wash his clothes and thereafter all had left the house for attending the engagement ceremony. In the course of investigation, there is recovery of big knife from the applicant, which was concealed in his cupboard. The statement of wife of the applicant would show that she had gone to her maternal house at Murum, Taluka Baramati, District Pune. On 12th May, 2017, the present applicant had called upon his wife and informed her that he is attending engagement ceremony and that she should not call upon him. It appears that the applicant was annoyed with his father as he was not being treated properly by his father. That he had not permitted the applicant to take proper education and neither cultivate the agricultural land. He had also suspected some intimacy between his father and his wife and therefore he has caused homicidal death of his father.

5 Upon perusal of the papers of investigation and going through the statements of Yuvraj and Jitendra, this Court is of the opinion that this is not a fit case for grant of bail to the applicant. The application being sans-merits stands rejected.

6 It is made clear that the observations made hereinabove are prima facie in nature and are restricted to the application under

Section 439 Code of Criminal Procedure and the trial Court shall not be influenced by the same at the time of trial.

7 In view of disposal of the Bail Application,the Intervention Application heard, allowed and disposed of.

(Smt. Sadhana S. Jadhav, J)