

Nalawade

FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2663 OF 2017

Sumit Anil Patil vs. State of Maharashtra

WITH

BAIL APPLICATION NO.2665 OF 2017

Kashinath J. Kalbande vs. State of Maharashtra

Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mrs. Vrishali R. Raje for the Applicant.

Mr. A.A.Palkar, APP. for the State.

CORAM : A.S.GADKARI, J.

DATE : 03rd July, 2018

P.C.

1. These are applications under Section 439 of the Code of Criminal Procedure for bail in CR No. I-82-2016 dated 12.9.2016 under Sections 342 and 397 of the I.P.C. registered with Boisar Police Station, District Palghar now culminated into Sessions Case No. 4/2017. The crime was originally registered under Sections 342 and 397 of the Indian Penal Code and after the death of the victim Mr. Kalpesh Pimple, Section 302 has been added to the present

crime.

2. Heard the learned counsel for the applicants and the learned APP. Perused the charge sheet.

3. The first information report is lodged by Shri. Shantaram B. Pimple father of the deceased Kalpesh Pimple.

The prosecution case in brief is that, the deceased apart from his employment with Postal Department was also conducting a part time business of money transfer. That, on 11.9.2016 at about 9.15 p.m. deceased Kalpesh came home from his motor cycle and after parking it immediately fell down. The family members noticed that he was having injuries on his head and blood was oozing from the injuries and therefore they asked Kaplesh as to what had happened, to which Kalpesh told them that “Pradip” assaulted him with pipe and got unconscious on the spot. Kalpesh was then admitted to hospital in unconscious state. He succumbed to injuries on 14.9.2016. The first information report has been lodged on 12.9.2016 at about 3.30p.m. which was initially registered under Sections 397

and 342 of the Indian Penal Code. Kalpesh succumbed to injuries on 14.9.2017 and thereafter Section-302 came to be added to the present crime. During the course of investigation the applicants have been arrested on 9.10.2016 and after completion of investigation the police have submitted charge sheet.

4. The record indicates that two witnesses have seen the applicants standing with a motor cycle near the shop of the deceased Kaplesh on 11.9.2016 at about 8.30p.m. The record further indicates that the applicant Kashinath Kalbande has shown the spot where it is alleged that the applicants with a view to destroy the evidence burnt a laptop and USB Cable of the said laptop belonging to deceased Kalpesh. A few pieces of the said articles were recovered from the said spot. Apart from the aforesaid circumstances, prima facie it appears that there is no other material available on record to show the complicity of the applicants in the present crime. The presence of the applicants near the shop of the deceased on 11.9.2016 at about 8.30 p.m., at this stage cannot be construed as a

conclusive circumstance against them. There is no material on record to connect the remnants found by the Investigating Officer from the spot shown by the accused Kashinath Kalbande to match with the laptop which was allegedly in use of deceased Kalpesh as the report pertaining to the same is awaited from the laboratory.

5. In view of the above, the applicants can be released on bail.

Hence, the following order.

a) The applicants be released on bail in CR No. I-82-2016 dated 12.9.2016 registered with Boisar Police Station, District Palghar now culminated into Sessions Case No.4/2017 pending on the file of Additional Sessions Judge, Palghar on their furnishing PR bond of Rs.25,000/- each with one or two separate solvent local sureties in the like amount.

b) After their release from Jail the applicants shall attend the Boisar Police Station on every first Monday of the month between 11.00 a.m. to 1.00 p.m. till the conclusion of the trial.

- c) The applicants shall attend all the dates before the trial Court unless precluded for medical reasons.
- d) Any two consecutive defaults in complying with the aforestated conditions will attract the provisions of cancellation of bail.
- e) The applicants shall not tamper with the evidence and/or pressurize the prosecution witnesses.
- f) Both the applications are allowed in the aforesaid terms.

(A.S.GADKARI, J.)