

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 457 OF 2019

Anant Babu Bhalekar

....Applicant.

Vs.

The State of Maharashtra

....Respondent.

Mr. Niranjan Mundargi I/by Mr. S.M. Jha for the Applicant.

Mr. S.S. Hulke APP, for the Respondent-State.

Mr. Sachin Thorat for the Complainant.

CORAM : A. S. GADKARI, J.

DATE : 13th MARCH, 2019.

P.C.:-

This is an Application under Section 439 of the Code of Criminal Procedure for bail in CR No. 0166 of 2018 dated 9th June, 2018 registered with Bhiwandi Taluka Police Station, Thane (Rural) under Sections 302, 452, 323, 504, 506 read with Section 34 of the Indian Penal Code.

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

3 It is the prosecution case that, on 8th June, 2018 at about 9.30 p.m. Mr. Raju Bhalekar (deceased) and his wife Mrs. Sarita Bhalekar, i.e. informant were discussing an issue pertaining to the

non-receipt of 7/12 extract despite of payment to one Mr. Gangadhar Gulvi. After hearing the said discussion, the Applicant who is immediate neighbor of the informant, came inside the house and questioned Mr. Raju Bhalekar (deceased) as to why he is abusing Mr. Gangadhar Gulvi. Mr. Raju Bhalekar (deceased) told the Applicant the reason. The Applicant being friend of Mr. Gangadhar Gulvi, got angry and assaulted Mr. Raju Bhalekar (deceased) with fist blows.

Hearing the said commotion the sons of the Applicant namely Harshad Bhalekar and Bevesh @ Banti came at the place. Harshad was armed with knife and Banti was armed with a wooden rod. Banti assaulted with wooden rod on the back of Mr. Raju Bhalekar (deceased) whereas, Harshad assaulted with the said knife on the left side of his stomach.

During the course of investigation, the Applicant came to be arrested on 9th June, 2018 and after completion of investigation, the police have submitted charge-sheet.

4 Column number 17 of the post-mortem notes of Mr. Raju Bhalekar (deceased) mentions, one incised wound over the left side of the abdomen of .5 cm x cavity deep expulsion of intestines. The cause of the death mentioned in the post-mortem report is due to injury to

vital organs by hard and sharp object.

5 The first information report filed by Smt. Sarita i.e. wife of the deceased, *prima facie* indicates that, it is after hearing the commotion between the Applicant and Mr. Raju Bhalekar (deceased) the sons who are residing immediately in the neighbouring premises came at the scene of offence and assaulted Mr. Raju Bhalekar (deceased) with the respective weapons in their hand. It *prima facie* appears that, the Applicant herein did not share common intention with the other two accused and as a consequence thereof, he did not have intention to commit murder of Mr. Raju Bhalekar (deceased).

6 In view of the above, the Applicant can be released on bail.

Hence, the following order.

- a) The Applicant be released on bail in CR No. 0166 of 2018 dated 9th June, 2018 registered with Bhiwandi Taluka Police Station, Thane (Rural) on his furnishing PR bond of Rs.25,000/- with one or two solvent local sureties in the like amount.
- b) After his release from Jail, the Applicant shall attend all the dates before the Trial Court unless

precluded on medical reasons.

- c) In case of any two consecutive defaults, the Investigating Officer is at liberty to file an Application for cancellation of bail.
- d) The Applicant shall not tamper with the evidence and/or pressurize the prosecution witnesses.

7 Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)