

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

CRIMINAL BAIL APPLICATION NO. 458 OF 2019

Dhiraj @ Matu Lalbihari Singh	...	Applicant
V/s.		
The State of Maharashtra	...	Respondent

Mr.V.V. Purwant a/w. Mr.Rushikesh Kale for Applicant.
Ms.J.S. Lohokare, A.P.P. for Respondent-State.
Mr.Manoj Khedkar, Hill Line Police Station, Ulhasnagar.

CORAM : A.S. GADKARI, J.

DATE : 15th April 2019.

P.C. :

1] This is an application under Section 439 of the Code of Criminal Procedure for bail in C.R. No. I-53 of 2018 dated 02/03/2018 registered with Hill Line Police Station, Ulhasnagar, District Thane, for the offence punishable under Section 302, 120-b, 147, 148, 149 of the Indian Penal Code and Section 37(1)(3), 135 of the Maharashtra Police Act.

2] Heard the learned counsel for the applicant and the learned APP. Perused the chargesheet.

3] It is the prosecution case that, deceased Babalu Choursiya and the accused persons in the present crime were residing within the jurisdiction of Vitthalwadi, Ulhasnagar-I. There was enmity between the accused persons herein and the deceased Babalu Choursiya. It is the further prosecution case that, the accused Babalu Choursiya and his associates had on earlier occasion i.e. on 17th October 2017 committed murder of Afridi Raju Shar @ Sajan. That after commission of the said crime deceased Babalu Choursiya had left the locality and was hiding himself from the accused persons in the present crime. That on 1st March 2018, the accused persons, herein, received information that, Bablu Choursiya was present at Aakash Colony, Pandit Mhatre Compound, Ulhasnagar-V and it is alleged that, thereafter, the applicant along with other accused persons went at the said spot, abducted Babalu Choursiya and committed his murder by inflicting blows of knife and by assaulting him with stones.

The first information report is lodged by Mr.Sitaram Choursiya, the father of deceased Babalu Choursiya.

During the course of investigation, the applicant came to be arrested on 2nd March 2018 and after completion of investigation, the

police have submitted chargesheet.

4] A perusal of chargesheet would indicate that, at the instance of the applicant a motorcycle has been recovered by the police under a panchanama dated 2nd March 2018. It is alleged that, on the date and time of the commission of the offence, the applicant and the co-accused travelled from the said motorcycle to the scene of offence and after commission of the crime fled away by riding the said motorcycle. The record indicates that, the identity of the applicant has not been established by conducting T.I. Parade. The record further indicates that, the tower location of the mobile-phone of the applicant is near to the scene of the offence on the date of commission of the crime. Apart from the said circumstance, there is no other cogent circumstance to establish the presence of the applicant at the scene of offence on the date and time of commission of the offence. It is submitted that, there are no antecedents against the discredit of the applicant.

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

Hence, the following order :-

- (i) The Applicant shall be released on bail in C.R. No. I-53 of 2018 dated 02/03/2018 registered with Hill Line Police Station, Ulhasnagar, District

Thane, on his furnishing P.R. bond of Rs.25,000/- with one or two solvent local sureties in the like amount.

- (ii) After his release from Jail, the applicant shall attend all the dates before the trial Court, unless exempted by the concerned Court.
- (iii) In case of two consecutive defaults, the Prosecution is at liberty to file an application for cancellation of bail.
- (iv) Applicant shall not tamper with the evidence and/or interfere with the process of investigation.
- (v) Application is allowed in the aforesaid terms.

[A.S. GADKARI, J.]