

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

CRIMINAL BAIL APPLICATION NO.575 OF 2019

Sunil Ramprasad Bharti

.... Applicant

versus

The State of Maharashtra

.... Respondent

.....

- Mr.Mohammed S. Adenwala, Advocate for Applicant.
- Mr.Rajan Salvi, APP for the State/Respondent.
- API Mr.Nitin Rathod, Kharghar Police Station, Navi Mumbai, present.

CORAM : SARANG V. KOTWAL, J.

DATE : 06th AUGUST, 2019

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.50/18 registered with Kharghar Police Station, Navi Mumbai, under sections 302, 452, 120(B) r/w 34 of the Indian Penal Code.

2. The charge-sheet in this case is already filed and the case is pending before Court of Session Raigad at Alibaug vide

Sessions Case No.51/18. The FIR in this case is lodged on 06/02/2008 by one Yogendra Chhediram Kanojia, who was brother of the deceased. He has stated in his FIR that on 06/02/2018 at about 07.12 p.m. he was informed that his brother Mahendra Kanojia was assaulted by three unknown persons by entering in his shop. The informant's brother succumbed to his injuries.

3. The post-mortem notes show that the deceased had suffered as many as 27 injuries and the cause of death was mentioned as "Death due to multiple injuries on body with superficial to deep burns 15 - 20%." The Applicant was arrested on 08/02/2018 and since then he is in custody.
4. The prosecution case is that the deceased was assaulted with weapons like iron rods and he was also attacked with acid. In all, six accused were arrested. The motive behind the murder was enmity between one Lalji Prasad and the deceased.

5. Heard learned Counsel Mr.Mohammed S. Adenwala for the Applicant and learned APP Mr.Rajan Salvi for the State.
6. Learned Counsel Mr.Adenwala for the Applicant submitted that there is absolutely no material against the present Applicant warranting his arrest. With his assistance, I have gone through the entire charge-sheet filed with this application.
7. Learned APP Mr.Rajan Salvi also could not point out any material against the Applicant. There are statements in the charge-sheet showing the motive behind the murder. These statements are of son of aforementioned Lalji and wife of Lalji Alka Lalji Prasad. These statements show that Lalji was holding grudge against the deceased. The informant had taken a shop from Lalji and had given for conducting business to his deceased brother Mahendra. Mahendra used to regularly visit Lalji's house. Marriage of Lalji's son was fixed against Lalji's wishes and at that time the deceased had helped other family members. It

had angered Lalji. The statement of Fulbadan Kushwaha shows that Lalji was under the impression that the deceased was performing black magic practices. However, beyond that she has not stated any further. The entire charge-sheet shows that there was some grudge held by Lalji against the deceased. However, the charge-sheet does not show that the present Applicant was in any manner connected with Lalji. It is hard to understand as to on what basis the Applicant was arrested and was kept in custody. There is a statement of one Ghanshyam Premjibhai Chamriya, who was the employer of the present Applicant. He has clearly stated that the Applicant used to go for his duty at 09.30 in the morning and used to leave at 09.30 in the night. On the date of incident i.e. 06/02/2019, the Applicant was working in his shop throughout the day and thereafter had left the shop after his duty. This directly establishes the alibi of the present Applicant.

8. Considering all these aspects it is quite apparent that there is absolutely no evidence worth mentioning against the

present Applicant. Therefore continued detention of the Applicant in the custody would be unjust. Therefore the Applicant deserves to be released on bail. Hence, the following order :

ORDER

- (i) The Applicant is directed to be released on bail in connection with C.R.No.50/18 registered with Kharghar Police Station, Navi Mumbai, on his furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
- (ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)