

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 2012 OF 2018

Mr.Surendra Baijnath Yadav	.. Applicant
Vs.	
The State of Maharashtra	.. Respondent

Mrs.Tahera Qureshi, for the Applicant.
Mr.A.A.Takalkar, APP for State.
Mr.N.V.Patil, API, Diaghar police station is present.

CORAM : PRAKASH D. NAIK, J.

DATE : 27th FEBRUARY, 2019

P.C. :

. This is an application for bail under section 439 of Cr.PC in Sessions Case No. 153 of 2017 registered with Shill Diaghar police station, Thane in connection with C.R. No. I-254 of 2016 for the offences punishable under sections 302, 201, 34 of I.P.C.

2. The First Information Report was lodged by wife of the deceased on 27/10/2016. It is the case of the prosecution

that the accused Lalji Tiwari is residing with the complainant and her family since last one year. He is working as a watchman. One month ago, he has assaulted the daughter of the complainant for causing damage to the mobile screen of the said accused. About 10 days ago, two other persons known to the accused Lalji Tiwari were brought by him and they were residing in the adjacent premises. The said persons which include the applicant were also working as watchman. On 24/10/2016, deceased informed the complainant that he is attending the party at the farmhouse with Lalji Tiwari, applicant and one Mr.Ali. Since the deceased did not return home, the complainant gave a call to him and he informed that he would return within 20 minutes. On 25/10/2016, an inquiry was made with the accused by the complainant about whereabouts of her husband. She was informed that he was dropped at the gate after the party by the accused. On 27/10/2016 dead body of the complainant's husband was located in the well situated in the village. First Information Report was registered on 27/10/2016.

3. Learned Counsel for the applicant submitted that there is no evidence against applicant except recovery of bamboo stick at the instance of applicant. Learned App, however, submits that the deceased had informed the complainant that he is attending party with the applicant. The deceased was lastly in the company of the accused. He was found dead in the well. It is further submitted that there is recovery of bamboo stick as well as recovery of blood stained shirt of the applicant. On perusal of the memorandum of statement, it appears that there is recovery of clothes at the instance of the co-accused. The motive in the crime is that one month ago, daughter of the complainant has caused damage to the screen of the mobile-phone of the accused. There is no eye witness to the incident. Except the evidence as stated above which is a weak piece of evidence, there is no strong circumstances to show that the applicant is involved in crime.

4. Learned APP submitted that three witnesses are already examined by prosecution and 10 witnesses are yet to be

examined. However, considering the nature of evidence, applicant need not be subjected to further detention. The case for grant of bail is made out. Hence, the following order.

ORDER

- (i) The application is allowed;
- (ii) The applicant is directed to be released on bail in connection with C.R. No. I-254 of 2016 registered with Shill Diadhar Police Station, District - Thane on his furnishing P.R. bond in the sum of Rs.25,000/- with one or more sureties in the like amount.
- (iii) The applicant shall report to the concerned police station once in a month on every first Saturday between 11.00 a.m. to 1.00 p.m. till further order.
- (iv) The applicant shall furnish the details of his residential address to the investigating officer and shall attend the trial Court proceedings regularly on the date of hearing, unless exempted by the trial Court.

(PRAKASH D. NAIK, J.)