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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2802 OF 2018**

Dinesh Bapurao Kapadnis

.....Applicant

V/s.

The State of Maharashtra

.....Respondent

Mr. P. G. Jagdale advocate for the applicant

Mr. Mateen A. R. Shaikh for the intervener

Mr. S. S. Hulke APP for the State

CORAM : NITIN W. SAMBRE, J.

DATE : JANUARY 8, 2019.

P.C.

Applicant came to be arrested on 25/01/2018 in crime no. 17 of 2018 registered with Jaikheda Police Station, Tal. Satana Dist. Nasik for an offence punishable under section 302, 342 r/w 34 of the Indian Penal Code.

2 After applicant was charge-sheeted, the case of the applicant for release on bail as is, no specific motive or role is attributed to the applicant in the crime in question. Applicant is neither named nor any overt act is attributed in the statement of various witnesses. According to him, neither Test Identification Parade was held nor C.D.R. of the

accused persons are produced alongwith charge-sheet. He would invite attention of this Court to the fact that the clothes of the applicant which were seized are neither blood stained, nor the use of various weapons in the commission of crime in question is attributed to him. According to him, in the aforesaid background, applicant is entitled to be released on bail.

3 The learned APP has invited attention of this Court to the statements of various eye witnesses of the incident. According to him, applicant is very much named as accused who has actively participated in the crime in question. That being so, as sound evidence available against the applicant in a serious crime of murder, as such, application needs to be rejected.

4 With the assistance of respective counsel, particularly the learned counsel for the applicant, I have perused statement of Arif Mukhtar Shaikh and Asif Mukhtar Shaikh who are real brothers of deceased Waris, one Poonam who alleged to have been in love-relation with Waris, father of Poonam namely Kalu, brother of Poonam namely Pravin.

5 Supplementary statements and statement under section 164 (5) of Code of Criminal Procedure, 1973 of Poonam was recorded on 27/01/2018 wherein, in categorical terms present applicant is claimed to have actively participated in the crime in question. Statement of real brothers of deceased Waris namely Aarif and Asif specifically named Bhausahab and his associates as the persons who are involved in the commission of crime in question.

6 The post mortem report in categorical terms cites cause of death as “Cardio Respiratory Arrest due to head injury”. Accused persons have used a stone used for crushing spices, wooden logs and the belt to assault Waris. All these items are specifically seized.

7 In view of the statement of eye witnesses wherein the present applicant is specifically named to have actively participated in the commission of crime in question, in my opinion, no case for bail is made out. Application fails, rejected.

[NITIN W. SAMBRE, J.]