

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO.1076 OF 2021**

Shirsappa @ Shrishail Kalappa Kattimani ... Applicant

V/s.

The State of Maharashtra ... Respondent

Ms. Rohini Wagh, Advocate for the Applicant.

Ms. P.P. Shinde, APP for the Respondent - State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 26th APRIL 2021.

PC. : Through video conference

1. Heard the learned counsel for the applicant and the learned APP for the Respondent – State.
2. This is an application under section 438 of Cr.P.C. The applicant is apprehending his arrest in Crime No.59/2019 registered at Akkalkot Solapur Police Station for the offences punishable under sections 363, 142, 147, 148 of the Indian Penal Code.
3. It is the case of the prosecution that on 8th February 2019 the complainant Gangaram Mali was admitted in Markandey Hospital, Solapur on 12th February 2019. His statement was recorded by the

Police and according to him, on 3rd February 2019 at about 3.00 pm, he along with his cousin Siddharam Kashinath Mali were proceeding towards Alangi Road. When they were near the farm of Apassa Kumbhar they met Shirsappa and Hamaru. At that time, Shirsappa had told the complainant that he has some work with him and therefore, he asked the complainant to accompany with him. The present applicant and Hamaru had taken him on their motorcycle and had further asked Siddharam to give an intimation to the family members that the complainant is in the company of the present applicant and Hamaru. He has further alleged that the applicant and Hamaru had detained him in a room and had assaulted him with fist and kick blows for 3 days as they had a grudge against him over the past incident. On 6th February 2019 they released him from their custody and brought him to his house. Thereafter, he was admitted in the hospital.

4. Initially, the offence was registered at Vijapur Naka Police Station and thereafter, since the incident had occurred in the jurisdiction of Akkalkot, the offence was registered at Akkalkot Police Station for the offences punishable under section 364, 302, 143, 147, 148 r/w 34 of IPC. The condition of Gangaram had deteriorated and therefore, he was admitted in Sasoon Hospital at Pune. On 22nd March

2019, Gangaram had expired. The final cause of death is as follows :-

“Complications following Cellulitis over both thighs with chronic Hepatitis with impending Cirrhosis.”

5. Hence, the learned counsel for the applicant submits that in fact, Gangaram was released from the custody of the applicant on 6th February 2019 whereas the statement is recorded on 9th February 2019. In any case, allegation is of assault with fist and kick blows. It is further contended that the applicant had not absconded but was staying in his own village. The name mentioned in the FIR is Shirsappa whereas name of the applicant is Shrishail Kalappa Kattimani. He was never summoned by the Police and therefore, he had no knowledge that an offence is registered against him. In any case, since the deceased had died on 22nd March 2019 and the cause of death has no concern with the assault with fist and kick blows. Hence, custodial interrogation of the applicant is unwarranted. Hence, the following order :-

ORDER

- (i) Application is allowed;
- (ii) In the event of arrest in Crime No.59/2019 registered with Akkalkot Solapur Police Station, Solapur, the applicant be

enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- and one or more solvent sureties in the like amount;

- (iii) Applicant shall report to Akkalkot South Police Station on six consecutive Mondays between 10.00 am to 1.00 pm;
- (iv) Applicant shall not tamper with the evidence;
- (v) Application is disposed of on above terms;
- (vi) Parties to act upon authenticated copy of the order.

(SMT. SADHANA S. JADHAV, J)