

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

**BAIL APPLICATION NO. 2819 OF 2021**

|                          |                 |
|--------------------------|-----------------|
| Deepak Kanhaiya More     | .... Applicant  |
| v/s.                     |                 |
| The State of Maharashtra | .... Respondent |

Mr. Hrishikesh Mundargi i/b. Ms. Swarali Joglekar for the Applicant.  
Mr. S.H. Yadav, APP for the State.  
Mr. Shingate, PSI, Mulund Police Station.

**CORAM: SMT. ANUJA PRABHUDESSAI, J.**  
**DATED : 30<sup>th</sup> MARCH, 2022.**

**P. C. :-**

. This is an Application under section 439 of Cr.PC. filed by the aforesaid Applicant who is facing trial in Sessions Case No.98/2021 pending on the file of Sessions Judge, Greater Mumbai for offences punishable under sections 302, 120(B) of the Indian Penal Code.

2. Heard Mr. Hrishikesh Mundargi, learned counsel for the Applicant and Mr. S.H. Yadav, learned APP for the State. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. The case of the prosecution is that Maruti Gawali was murdered on the intervening night of 1<sup>st</sup> and 2<sup>nd</sup> October, 2020. The son of the

deceased lodged the First Information Report (FIR), pursuant to which crime came to be registered against an unknown person. Body of the deceased was sent for post mortem. The post mortem report indicates that the death was homicidal. The Applicant came to be arrested on 12/10/2020 on a suspicion that he was involved in committing murder of the deceased – Maruti Gawali. It is the case of the prosecution that the father of the Applicant had died under mysterious circumstances and that the Applicant believed that his father had died because of the black magic committed by the community.

4. It is the case of the prosecution that as a revenge, the Applicant had entered into a criminal conspiracy with co-accused – Asif to cause death of Maruti Gawali. The only material against the Applicant is in the form of the statements of Altaf Ansari and Vijendra Pawar. The statement of Altaf Ansari prima facie indicates that the Applicant was upset due to the death of his father and that he had seen him crying and stating that some persons had done black magic. This witness claims that Asif had hugged the Applicant and told him not to get stressed. He has stated that thereafter, the Applicant sent his brother – Vinod (co-accused no.2) to get some money and accordingly, paid money to said Asif. The statements of Vijendra Pawar also prima facie

reveals that the Applicant was upset over the death of his father and that he had asked his brother to get some money and thus, he had paid an amount of Rs.2,000/- to Asif.

5. The material on record at the most would indicate that the Applicant had paid some money to Asif. Apart from this, there is no other material on record to indicate that the Applicant was involved in hatching conspiracy to cause death of Maruti Gawali. Moreover, the Applicant did not suspect that the deceased was personally involved in causing death of his father by black magic or otherwise. His suspicion was against the entire community. Prima facie, there was no motive for the Applicant to cause the death of the deceased.

6. Considering the nature of the accusations and the material in support thereof, in my considered view, the Applicant is entitled for bail. Hence, the Bail Application is allowed on following terms and conditions :-

- (i) The Applicant who is facing trial in Sessions Case No.98/2021 pending on the file of Sessions Judge, Greater Mumbai, is ordered to be released on bail on furnishing PR

bonds in the sum of Rs. 25,000/- (Rupees Twenty Five Thousand Only) with one or two solvent sureties in the like amount.

- (ii) The Applicant shall report to Mulund Police Station, Mumbai once in a month on every 1<sup>st</sup> Saturday between 11.00 a.m. to 01.00 p.m. until further orders;
- (iii) The Applicant shall not interfere with the complainant and/or shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (iv) The Applicant shall keep the Trial Court informed of his current address and mobile contact number and/or change of residence or mobile details, if any, from time to time.
- (v) The Applicant shall co-operate with the conduct of the trial and attend the trial Court on all dates, unless exempted.

**PREETI  
H JAYANI**

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PREETI H JAYANI  
Date: 2022.04.01  
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7. Bail Application stands disposed of in above terms.

**(SMT. ANUJA PRABHUDESSAI, J.)**