

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

BAIL APPLICATION NO. 1568 OF 2023

Mahendra Rajanna Mothkuri	... Applicant
v/s.	
The State of Maharashtra	 Respondent

**WITH
INTERIM APPLICATION NO. 2470 OF 2023
IN
BAIL APPLICATION NO. 1568 OF 2023**

Mrs. Swapna Ravikumar Mothkuri	 Intervenor
--------------------------------	-----------------

In the matter between :-

Mahendra Rajanna Mothkuri	... Applicant
v/s.	
The State of Maharashtra	 Respondent

Mr. Prakash Wagh for the Applicant in BA/1568/2023.

Ms. A.A. Takalkar, APP for the State.

Mr. Dilip Shukla i/b. Ms. Priya Chetnarayan for the
Applicant in IA/2470/2023.

Mr. Ahire, PSI, MIDC Police Station, present.

**CORAM: SMT. ANUJA PRABHUDESSAI, J.
DATED : 03rd AUGUST, 2023.**

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.301/2023 pending on the file of learned Sessions Judge, Dindoshi, Mumbai. The said case arises from C.R.No.115/2023 registered with MIDC Police Station, Mumbai for offence punishable under section 304 r/w. 34 of the Indian Penal Code.

2. Heard learned counsel for the Applicant, learned APP for the State and learned counsel for the Intervenor. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. The aforesaid crime was registered pursuant to the FIR lodged by Smt. Swapna Mothkuri, the sister-in-law of the Applicant. The facts narrated in the FIR prima facie reveal that there was dispute between the Applicant and his brother over the ownership of flat. It is stated that the civil dispute pending before Small Cause Court, Bandra was listed on 20/02/2023 for judgment. It is stated that the Applicant herein informed the deceased that he would not vacate the premises even if the judgment is in his favour. There was an altercation between both the brothers over the said issue. The first informant claims that Jitendra pushed her husband – Ravi Kumar as a result he fell on the sofa. The Applicant and his brother – Jitendra as well as the co-accused Bhagyashree and Priyanka assaulted her husband – Ravi Kumar by blows and kicks till he was unconscious. Her husband was taken to the hospital but was declared dead.

4. The post mortem report indicates that there were no external injuries on the body of the deceased. The Doctor has opined that cause of

death was due to *Acute Coronary Artery Disease with Chronic heart disease*. The Doctors have certified that the death was natural. The material on record, does not prima facie indicate that the death of Ravi Kumar was homicidal or that the Applicants were involved in causing his death. In such circumstances, this is a fit case to exercise discretion under section 439 of Cr.PC. Hence, the Application is allowed on the following terms and conditions :-

- (i) The Applicant - Mahendra Rajanna Mothkuri who is facing trial in Sessions Case No.301/2023 pending on the file of learned Sessions Judge, Dindoshi, Mumbai arising out of C.R.No.115/2023 registered with MIDC Police Station, Mumbai, is ordered to be released on cash bail in the sum of Rs.40,000/- for a period of four weeks ;
- (ii) The Applicant shall, within the said period of four weeks, furnish P.R. bonds in the sum of Rs.40,000/- with one or two solvent sureties in the like amount ;
- (iii) The Applicant shall report to MIDC Police Station, Mumbai once in three months on every 1st Monday of the month between 11.00 a.m. to 02.00 p.m. until further orders ;

- (iv) The Applicant shall not interfere with the first informant and the other witnesses and shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case in any manner ;
 - (v) 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.
 - (vi) The Applicant shall co-operate with the conduct of the trial and attend the trial Court on all dates, unless exempted.
5. Bail Application and Interim Application stand disposed of in above terms.

(SMT. ANUJA PRABHUDESSAI, J.)

Digitally
signed by
PREETI
HEERO
JAYANI
Date:
2023.08.08
17:58:22
+0530