

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1146 OF 2015

Swapnil Suresh Satpute ... Applicant

Vs.

The State of Maharashtra ... Respondent

Mr.S.A. Ingawale for the Applicant
Mr.D.P. Adsule, APP, for Respondent – State

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **JULY 17, 2015**

P.C.:

1. The application is moved for bail as the applicant/accused is facing charges under section 302 r/w section 34 of the Indian Penal Code registered with Rajarampuri police station, Kolhapur at C.R. No.64 of 2014. One Tipavva Vasant Kamble gave information to the police on 24.3.2014 that his nephew Rahul was found assaulted. On the day of the assault, he was noticed drunk alongwith his friends who were also drunk. Then Rahul was taken to hospital. There was a head injury and his clothes were fully soaked in blood. Thereafter, he succumbed to the injuries on the same day. It is the case of the prosecution that on that day, i.e., on 24.3.2014, the applicant/accused and other co-accused who are the friends of Rahul, had drinks and there was quarrel between the deceased Rahul and the applicant/accused Swapnil. There was already some

dispute between these two due to some other incidents. On that day, he assaulted him with stone. The applicant/accused Swapnil was arrested on 25.3.2014. Hence, this application for bail.

2. The learned Counsel for the applicant/accused has submitted that the applicant/accused is innocent. Even if the case of the prosecution is taken as it is, it was a sudden quarrel and not premeditated crime. There is no witness on the point of assault. There is no recovery from the applicant/accused. The applicant/accused is in the prison since last two years only on the ground of suspicion. He also submitted that bail application of one of the co-accused Feroze was granted on 30.3.2015. Under such circumstances, he should be granted bail.

3. Learned Prosecutor has opposed the bail application and relied on the statements of the eye witnesses, who saw the applicant/accused and the deceased drinking together and thereafter there was a fight between these two persons. He relied on the post mortem report. He also submitted that a blood stained stone has been recovered at his instance and there are antecedents against him. He has a very bad criminal record and some cases are pending against him.

4. On perusal of the FIR and the statements, it appears prima facie that the applicant/accused was alongwith the deceased and the co-accused, who were drinking on that afternoon throughout. As per the

statements of the witnesses, there was a quarrel verbal as well as physical between the applicant/accused and the deceased. The post mortem report discloses that there was a head injury. Prima facie, there is evidence against the applicant/accused. Further, there are antecedents against the applicant/accused. As regards the case of co-accused Feroze getting bail, it stands on a different footing and therefore he was granted bail and hence, the doctrine of parity cannot be applied to the present applicant/accused.

5. In view of the above, the bail application is rejected.

(MRS.MRIDULA BHATKAR, J.)