

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 123 OF 2015

Mangesh Datta Gade	... Applicant
Vs.	
The State of Maharashtra	... Respondent

Mr. Niranjan A. Mogre, Advocate for the Applicant.
Ms. Veera Shinde, APP for Respondent – State.
Mr. Niteen Laxman, P.S.I., Chaturshringi Police Station present.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE : **JUNE 10, 2015**

P.C.:

This Application is moved for bail, as the applicant/accused is facing charges of murder under section 302, 120B r/w. 34 of the Indian Penal Code, under sections. 4 (25) of the Arms Act and section 135 of the Bombay Police Act in C.R. No. 92 of 2014 at Chaturshringi Police Station, Pune.

2. It is the case of the prosecution that on 21st March, 2014 deceased Maruti Alkunte @ Dorya was drinking liquor along with his friend Sunil, who is eye witness, at Janwadi, Pune, at that time, applicant/accused along with other accused arrived there. Co-accused Rakesh Jadhav assaulted Maruti with sharp edged weapon on his head. Then co-accused Ishya Polekar also assaulted him with sickle on his head. The applicant/accused tried to assault the deceased with stone, however, because of intervention of Sunil, he missed the aim. Due to assault,

Maruti succumbed to injury on the same day. The applicant/accused was arrested on the next day, i.e., 22nd March, 2014 and he is in prison since then. Hence, this Bail Application.

3. The learned counsel for the applicant/accused submitted that the applicant/accused tried to hit the deceased with stone. As per the case of the prosecution, the stone was hit on the back of deceased and as per the postmortem report, the deceased died due to multiple head injuries. He further submitted that applicant/accused is not a hardened criminal. There is one case under section 324 of Indian Penal Code pending in the Court of Judicial Magistrate First Class, Pune

4. The learned APP opposed the Bail Application and submitted that it is a case under section 302 and applicant/accused was present at the time of incident. Eye witness Sunil has mentioned the role of applicant/accused and hence, the applicant is not to be bailed out.

5. Perused the FIR and the statement of the eye witness. The presence of applicant/accused, at this stage, cannot be disputed, however, the statement reveals that co-accused Rakesh Jadhav and Ishya Polekar assaulted the deceased on his head with weapons. The applicant/accused was not armed with weapon. He tried to assault the deceased with stone, however, he missed the aim. The cause of death mentioned in the postmortem report is multiple injuries on the head.

Under such circumstances, I am inclined to grant bail to the applicant/accused on the following terms and conditions:

ORDER

- i) Application is allowed.
 - ii) The applicant/accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs. 30,000/-, with one or two solvent sureties in the like amount;
 - iii) The applicant shall not tamper the witness and evidence of the prosecution;
 - iv) The applicant shall not indulge into any kind of offence while on bail;
 - v) The applicant shall make himself available and attend all the Court dates.
 - vi) The applicant/accused shall not abscond and shall furnish his address to the police along with address proof.
 - vii) The applicant shall not leave India without the permission of the Court.
 - viii) Breach of any of the conditions shall amount to cancellation of bail forthwith.
 - ix) Parties to act upon the authenticated copy of this order.
6. The Application stands disposed of on above terms.

(MRS.MRIDULA BHATKAR, J.)