

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 144 OF 2015

Laxman Maya Mhatre

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Ganesh Gole a/w i/b D. V. Kendre for Applicant

Mr. S. S. Pednekar APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : FEBRUARY 11, 2015

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is arrested on 28/10/2014 in crime no. 66 of 2014 registered at Nagothane Police Station for offence punishable under section 302 r/w 34 of Indian Penal Code. Investigation is completed and charge-sheet is filed.

2) It is the case of prosecution that on 25/10/2014, one Yogesh Waghmare lodged a report at the police station stating therein that on that day, at about 3.00 pm, he was proceeding towards his agricultural land along with his

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uncle, he saw an unidentified dead body. There were blood stains on the person as well as on the stones lying nearby. He completed his agricultural operations and when they were proceeding towards agricultural land of his paternal uncle Anil, he saw blood stained shirt in the grass. He could sense foul smell. He saw dead body of a person aged about 40 years old. Maggots had formed all over his dead body. They disclosed the incident to the family members and thereafter, informed about it to the police. On the basis of the said statement, crime no. 66 of 2014 was registered against unknown persons. Inquest panchanama would show that body was highly decomposed. There was maggot formation. Body was identified as that of Vilas Mhatre on 25/10/2014. Investigating Officer had recorded the statement of Maruti Chogale on 27/10/2014 and he disclosed to the police that on 23/10/2014, at about 7.00 pm, Kalya Naik and Vilas Mhatre had been to purchase liquor from him and they had consumed two pouches of liquor and had carried 4 pouches along with them. It had transpired in the course of investigation that on 22/10/2014, present applicant had assaulted Vilas Mhatre with a stick on his head. However, in view of the statement of Maruti Chogale, it cannot be said that Vilas had succumbed to the injuries instantly. No apparent injury was

seen by Maruti Chogale on the head of Vilas Mhatre on 23/10/2014. Post mortem notes would reveal that he had sustained fracture injuries to his head. Said injuries would indicate that he must have died instantaneous death. There was no missing complaint filed.

3) Learned APP submits that there is evidence to show that applicant had assaulted Vilas on 22/10/2014 and therefore, he does not deserve grant of bail.

4) Learned counsel for the applicant submits that on 23/10/2014, Vilas was alive at least till 9.00 pm, as per the statement of Maruti Chogale. Post mortem was conducted on 26/10/2014 at 8.00 am. F.I.R. itself would show that on 25/10/2014, there was maggot formation on the dead body.

5) Case rests upon circumstantial evidence. Prima facie, charge-sheet does not reveal that applicant must have been the author of the fatal injuries. Kalya Naik who was lastly seen in the company of the deceased on 23/10/2014 has been enlarged on bail. Investigation is completed and charge-sheet is filed. Hence, applicant has made out a case for grant of bail. It is made clear that

observations made herein above are prima facie in nature and shall not be considered for quashing of F.I.R., discharge application or at the time of trial.

ORDER

- (i) Application is allowed.
- (ii) Applicant be enlarged on bail on furnishing P. R. bond in the sum of Rs. 15,000/- and one or two sureties in the like amount.
- (iii) Applicant shall report to concerned police station as and when called.

Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)