

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 300 OF 2015

Rahul Arun Waghmare

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Vikas Shivarkar for Applicant

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

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : FEBRUARY 27, 2015

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is arrested on 30/03/2014 in crime no. 253 of 2013 registered at Yerawada Police Station for offence punishable under section 302, 120 (B) r/w 34 of Indian Penal Code. Investigation is completed and charge-sheet is filed. Applicant herein prays for bail, mainly on the ground of parity.

2) It is the case of prosecution that on 01/06/2013, one Jitendra Gaikwad was found in a pool of blood on the road. Shobha Sarkal and others had carried him to the hospital. On the way, they had asked the injured Jitendra about the incident and he had disclosed that Vishal Kasabe had caught hold of

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him from behind and one Lalya Dadar had assaulted him with knife. Injuries were fatal. He succumbed to the said injuries and has died. On 02/06/2013, Rajan Bhimrao Gaikwad i.e. brother of the deceased has lodged a report at the police station about the said incident. In the F.I.R. also, it is specifically stated that Lalya Dadar had assaulted him with a knife.

3) It is pertinent to note that Vishal Kasabe has been enlarged on bail by this Court (Coram: P. D. Kode, J.) by an order dated 31/10/2014. The role assigned to Vishal Kasabe is that he was holding the deceased to facilitate Lalya Dadar to assault him. It appears from the papers of investigation that applicant had some dispute with the deceased, much prior to the incident. In view of the above mentioned facts, applicant deserves grant of bail by virtue of doctrine of parity. However, 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. It is further made clear that accused Lalya Dadar shall not claim parity with the present applicant.

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) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)