

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 301 OF 2015

Vaibhav Dada Sakate

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Vinay J. Bhanushali for Applicant

Ms. S. S. Kaushik APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 9th JUNE, 2015

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is arrested on 28/03/2014 in crime no. 42 of 2014 registered at Meghwadi Police Station, initially for offence punishable under sections 307, 452, 323 r/w 34 of Indian Penal Code. Investigation is completed and charge-sheet is filed.

2) It is the case of prosecution that on 06/02/2014, one Chetan Sapte lodged a report at the police station that he is working with Raju Frame Maker. On 06/02/2014, his owner was sitting at the counter of the shop. Four unidentified persons entered into the shop. They called upon his owner to

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come outside. Upon refusal by his owner, the said assailants had dragged him out of the shop and had assaulted him with a knife which was concealed with one of the assailants. The victim succumbed to the injury on 07/02/2014. The autopsy notes would indicate that victim had sustained one stab injury on tempero parital region on forehead. The injury was deep injury. There was fracture of skull bone. Cause of death was shock due to head injury (incised).

3) Complainant has specifically stated that when the assailants had seen him holding his owner, assailants had fled from the spot. On the basis of his report, crime no. 42 of 2014 was registered. Law was set in motion, test identification parade was conducted. It is pertinent to note that eye witnesses have not identified the present applicant as assailant of victim.

4) Learned counsel for the applicant submits that by an order dated 12/01/2015, the co-accused have been enlarged on bail by this Court. Predecessor Bench Coram: P. D. Kode (Retired) has observed that material on record is not sufficient to hold that said person was the assailant. Implicit reliance is placed on test identification parade and the accused has been enlarged on bail. Learned counsel for the applicant submits that by virtue of doctrine of parity, applicant would also be entitled to be enlarged on bail.

Learned counsel submits that applicant is in jail for more than one year.

5) In view of above observations, application deserves to be allowed.

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.)