

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 331 OF 2015**

Sanjay Maruti Shinde	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Kartik S. Garg with Ms. Mallika A. Ingale for the Applicant

Ms. S. S. Kaushik, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.

TUESDAY, 24TH MARCH, 2015

P.C. :

1. Heard learned Counsel for the applicant and the learned A.P.P.
2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 371 of 2013 registered with the Kandivali Police Station, Mumbai, for the alleged offences punishable under Sections 302, 354A of the Indian Penal Code.
3. The incident in question has taken place on 8th December, 2013, at about 1:30 p.m. It is alleged by the complainant (now deceased) that at about 1:30 p.m., his youngest daughter woke him up and disclosed

to him that the applicant was quarreling with her, as she was running in and out of the house. It is alleged that the complainant inquired with the applicant about the same, resulting in an altercation between the complainant and the applicant. At the time of the altercation, the applicant and the complainant were standing on the edge of the staircase. It is alleged that in the scuffle, the applicant pushed the complainant, as a result of which, he fell down and hurt himself. Thereafter, the complainant was moved to the hospital. On the basis of the statement of the complainant which came to be recorded on 9th December, 2013 an FIR was registered as against the applicant. The complainant succumbed to his injuries on 15th December, 2013, because of the fractures sustained by him, after which, Section 302 of the Indian Penal Code came to be added. It appears, that in the course of investigation, the statement of the complainant's daughter came to be recorded on 13th December, 2013, wherein, she disclosed that the applicant had demanded certain sexual favours from her and hence, Section 12 of the Protection of Children from Sexual Offences Act ('POCSO') came to be added. It appears that as the age of the girl according to the School Leaving Certificate was 21 years and as her Ossification Test report showed that she was between 18 and 19 years of

age, Section 12 of the POCSO came to be deleted and Section 354A of the Indian Penal Code came to be added.

4. Learned Counsel for the applicant submitted that there was no motive whatsoever on the part of the applicant to cause the alleged serious offence with which he has been charged i.e. under Section 302. He submitted that the incident was an outcome of a sudden quarrel and that in the scuffle, the complainant fell down. He submitted that even *prima facie* no offence under Section 302 can be said to have been made out.

5. Perused the papers of investigation. *Prima facie*, it appears to be a case of a sudden quarrel. It also appears from the record that in the scuffle, the complainant fell down from the staircase, where both the complainant and the applicant were standing. The deceased complainant succumbed to his injuries after almost 7 days of the incident. *Prima facie*, Section 302 would not apply. Considering the fact, that the applicant has been in custody since 16th December, 2013 and the fact that the investigation is complete and charge-sheet is filed, the applicant deserves to be released on bail, on the following terms and conditions :

ORDER

- (i) The applicant Sanjay Maruti Shinde be released on bail in connection with case No. C.R. No. 371 of 2013 registered with the Kandivali Police Station, Mumbai, on executing PR Bond in the sum of Rs. 15,000/- with one or two solvent sureties in the like amount;
- (ii) The applicant shall not tamper or attempt to contact or influence any witness concerned with the case;
- (iii) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the Kandivali Police Station, Mumbai;
- (iv) The applicant to cooperate with the conduct of the trial;
- (v) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

6. The aforesaid observations are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

7. The Application is allowed in the aforesaid terms and is accordingly disposed of.

8. Parties to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.