

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 415 OF 2015

Pramod Kumar Bacchan Singh

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. H. S. Venegaokar for Applicant
Mr. Y. M. Nakhwa APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : 15th JUNE, 2015

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is arrested on 05/06/2014 in crime no. 150 of 2014 registered at R.C.F. Police Station for offence punishable under sections 302, 307 r/w 34 of Indian Penal Code. Investigation is completed and charge-sheet is filed. F.I.R. was lodged on 05/06/2014 at about 9.50 a.m.

2) It is the case of prosecution that dead body of Imran was found near Sai temple on 05/06/2014 at about 7.10 a.m. At about the same time, Yogesh was found in an injured condition at a distance. Yogesh succumbed to the injuries after seven days. People had gathered on the spot. One Irfan Pathan, a rickshaw driver who had noticed the dead body had lodged report.

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Complainant is brother of Imran @ Imu. On the basis of his report, investigation was set in motion. Initially A. D. No. 69 of 2014 was registered. It appears from the records that accused were arrested on 05/06/2014. Thereafter, on 07/06/2014, Investigating Officer had recorded the statements of the eye witnesses. According to narration given by eye witnesses, it appears that in the intervening night of 04/06/2014 and 05/06/2014, Imran @ Imu and Yogesh had entered into the house of applicant through the roof with an intention to commit robbery. There was theft in the house. Both the deceased had entered the house of the applicant in a naked condition. Applicant and co-accused had allegedly assaulted both persons by bamboos. Thereafter, present applicant had called upon eye witnesses. Eye witnesses had seen that present applicant and co-accused had assaulted deceased persons. However, deceased persons were expressing their willingness to return the amount which was stolen. Thereafter, Imu had left the house of the applicant. People on the road were asking him to wear his apparel and he refused to put on his clothes. Thereafter, he was found dead. Eye witnesses account would show that applicants had assaulted the persons who had committed criminal trespass into their house in the midnight.

3) Learned counsel for the applicant submits that in the middle of the night, applicant had reacted by assaulting persons who had entered into the house, however, there was no intention to cause homicidal death. Incident had occurred on the spur of moment without any premeditation. Post mortem notes also reveal that deceased had sustained contusions all over the body. It appears that there was fracture on 8th & 9th rib as far as Imran is concerned. However, papers of investigation reveal that he had driven on a scooty while he left the house of present applicant and therefore, according to learned counsel for the applicant, there was no instantaneous death. The applicant is in jail for more than one year.

4) Taking into consideration the evidence collected by the Investigating Officer, it can be said that applicant herein has made out a case for grant of bail. Co-accused shall not claim parity with present applicant and in the eventuality that he files an application seeking bail, same may be decided on its own merits. 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 local sureties in the like amount.
- (iii) Applicant shall report to concerned police station on 1st Sunday of each month, till the conclusion of trial.
- (iv) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)