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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 304 OF 2015
IN
CRIMINAL APPEAL NO. 313 OF 2015

Nazir Fakhruddin Ahmed

.. Applicant

Vs.

State of Maharashtra

.. Respondent

Mr. Jagdish S. Hegde for applicant.

Mrs. Sangeeta D. Shinde, APP for State.

CORAM: B. P. DHARMADHIKARI &
A. S. GADKARI, JJ.

AUGUST 11, 2015.

P.C.

1. Heard. Submission of learned counsel for applicant is, there is no evidence which demonstrates that it is the applicant, who threw deceased – Lalit from balcony of first floor. He takes us through evidence of PW 3 to demonstrate that after alleged initial quarrel within hotel at first floor, deceased, PW 3 and applicant were asked to go out. Some third person assaulted deceased on public road outside hotel on ground floor and thereafter deceased again ran back to hotel on first floor. As death is caused on account of fall from gallery of that hotel, it is alleged that it is application who threw him out of that balcony.

2. Learned APP submits that outside hotel after assault by

accused no.2, prosecution has pointed out attack on head of deceased by present applicant with beer bottle. As he was hit on head, deceased ran back to hotel from which he was driven out and in the gallery on first floor there was again some quarrel. She relies upon spot panchanama and evidence of PW 3 to urge that it is accused-applicant who has thrown deceased out of that balcony.

3. Learned counsel, in reply, states that it is defence of the applicant that he never went to gallery thereafter and after initial quarrel he had retired back to his room.

4. Perusal of evidence of PW 3 shows that he witnessed the quarrel in gallery of first floor from ground floor. Before he could reach gallery, deceased was thrown out. Perusal of spot panchanama reveals scattered beads in gallery and it has come on record that those beads were worn around the neck by deceased. Quarrel of deceased with applicant is viewed by PW 3 from ground floor.

5. In the light of facts, which have come on record, we find that no detailed scrutiny of evidence at this stage is possible. No case is made out for grant of bail. Application rejected. However, we expedite the hearing of appeal.

(A. S. GADKARI,J.)

(B. P. DHARMADHIKARI,J.)