

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 643 OF 2015

Rakesh Sheshman Yadav. ... Applicant.
Versus
The State of Maharashtra & anr. ... Respondents.

Mr. Rajbali Dubey, advocate for Applicant.

Ms. S.S. Kaushik, APP for State.

Mr. Birajdar, PSI, R.A.K. Marg Police Station.

CORAM : SMT. SADHANA S. JADHAV,J
DATE : JUNE 18, 2015

P.C.:

1 Heard the learned Counsel for the applicant and learned APP.

2 This is an application under Section 439 of the Code of Criminal Procedure, 1973. The applicant herein is arrested on 2/7/2014 in Crime No. 135 of 2014 registered at R.A. K Marg Police Station initially for offence punishable under Section 307, 506(2) of the Indian Penal Code. However, subsequently since the victim had succumbed to the injury, the applicant herein is charge-sheeted for

offence punishable under Section 302 of the Indian Penal Code. The victim has succumbed to the injuries after 24 days of the alleged incident. Investigation is completed and charge-sheet is filed.

3 In nut-shell the prosecution case is that on 1/7/2014 one Mangal Dabade lodged a report at the police station alleging that Sachin and Sandeep are her sons. Her husband is addicted to liquor. He is suffering from liver decease. On 1/7/2014 it was Sandeep's birthday. Hence, he was alongwith his friend. The dog of the applicant was barking at Sandeep and therefore, Sandeep had picked up a stone lying nearby and had hit the dog. Thereafter, Rakesh had questioned Sandeep as to why the dog was assaulted and in the scuffle the present applicant is alleged to have picked up a rod lying nearby and had hit on the head of Sandeep. Sandeep was admitted in the hospital and was taking treatment in KEM hospital. He died on 24/7/2014 at about 11.30 p.m. The post-mortem notes would reveal that the injured had sustained injury on his head. The cause of death is shown as head injury due to blunt trauma.

4 The learned Counsel for the applicant submits that the applicant herein had no intention to cause homicidal death of Sandeep. The act was not premeditated but had occurred at the spur of the moment, in the fit of rage. It is also argued that cause of death could be attributed to the medical intervention or medical negligence. That it cannot be said that Sandeep had died due to head injury instantaneously.

5 Taking into consideration the facts of the case and the submissions advanced, the applicant has make out a case of grant of bail.

6 However, the above observations are prima facie in nature. The same shall not be considered while deciding application for discharge or quashing of FIR or at the time of trial. The trial Court shall decide the matter on its own merits uninfluenced by the abovesaid observations.

7 Hence, following order is passed.

ORDER

(i) The application is allowed.

(ii) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- and one or two sureties in the like amount.

(iii) The applicant shall report to the concerned police station on first Sunday of each month till conclusion of trial.

(iv) The applicant be released on provisional cash bail for a period of one month.

8 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)