

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 919 OF 2015

Amit Anandraj Pille

... Applicant

Vs.

The State of Maharashtra

... Respondent

Mr. Aniket U. Nikam, Advocate for the applicant.

Mr. Arfan Sait, APP for the State.

I.O. Mr. M.S. Kalgude, P.S.I., Khadki Police Station present.

CORAM: **MRS.MRIDULA BHATKAR, J.**DATE : **AUGUST 10, 2015****P.C.:**

This Application is moved for bail, as the applicant/accused is apprehending arrest under section 302 r/w. 34 of the Indian Penal Code in C.R. No. 127 of 2014 at Khadki Police Station, Pune.

2. It is the case of the prosecution that Ashok Ganpat Salvi, P.S.I. gave information to the police on 22nd May, 2014 that when he was on duty, he was allotted this case for investigation and the person is shown as dead due to head injury. Therefore, he carried out spot panchnama and during investigation, he realized that deceased Prakash Macchindra Suryawanshi was missing from 18th May, 2014. His family were searching for him. His body was found on 20th May, 2014.

3. It is the case of the prosecution that the applicant/accused along with his friends Manoj Jadhav and Justine James were drinking on the

night of 18th May, 2014 and at that time, Manoj Jadhav threw stone towards Prakash Suryawanshi and so Prakash questioned Manoj for this act. Suddenly, a quarrel took place between deceased, applicant/accused and co-accused. The applicant/accused and co-accused Manoj assaulted deceased Prakash with hands and bricks. Co-accused Justine James assaulted the deceased with hands. Deceased Prakash died due to head injury. The applicant/accused was arrested on 22nd May, 2014. Hence, this Bail Application.

4. The learned counsel for the applicant/accused has submitted that it is not a pre-meditated offence. The applicant/accused did not invite any quarrel but it was co-accused Manoj Jadhav who threw stone on the deceased and thereafter there were verbal altercations between Manoj Jadhav, applicant/accused and the deceased. He further submitted that the evidence before the Court is not sufficient to hold the applicant/accused guilty. He submitted that co-accused Justine James was released on bail by the order of this Court dated 20th July, 2015 and, therefore, on parity the applicant/accused also be enlarged on bail.

5. Learned APP opposed the Application. He relied on the statements of complainant, Intiyaz Babu Khan, Pratap Macchindra Suryawanshi, Ramzan Mehmud Syed. He submitted that Ramzan Syed is an eye witness and he has attributed specific role to the applicant/accused. He

further stated that in the statement of Imtiyaz Khan there is a mention of extra judicial confession by the applicant/accused that he and co-accused Manoj 15 to 20 minutes after assault, again arrived there and found that the deceased was alive and so they again hit stones on his head and killed him. He submitted that this is not a case to grant bail.

6. Perused the FIR, statements of the witnesses and the order passed by this Court on 20th July, 2015. It is to be noted that accused Justine James is released on bail because he is attributed the role of hitting deceased with hand. The postmortem report discloses that the cause of death is head injury. The statements of witnesses discloses that the applicant/accused along with other accused Manoj assaulted deceased independently with brick on his head. Finally it resulted into death of deceased. At this stage, I am of the view that though the assault was not premeditated but from the statements of the Ramzan Syed and Imtiyaz Khan *prima facie* there is evidence involving the applicant/accused in the offence, hence, the applicant/accused is not entitled for bail. The Application for bail is rejected.

(MRS.MRIDULA BHATKAR, J.)