

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.1114 OF 2015

Vishal Sunil Kokare .Applicant

v/s.

The State of Maharashtra .Respondent

Mr.Kuldeep S. Patil i/b. Mr.P.S.Hagare,
Advocate, for the Applicant
Ms Veera Shinde, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 19.10.2015

P.C.

. Heard learned counsel for the applicant
and the learned APP for the respondent – State.

2. By this application, the applicant
seeks his enlargement on bail in connection with
C.R.No.52 of 2014 registered with the Bhigwan
Police Station, Pune(Rural), for the alleged
offence punishable under Section 302 of the
Indian Penal Code.

3. According to the prosecution, the applicant allegedly went to the deceased's house and assaulted him with a wooden log on his head on 21.11.2014. The deceased died on 26.12.2014, while he was undergoing treatment at Gawde Hospital. Pursuant to the same, a complaint was lodged by the brother-in-law of the deceased on 26.12.2014.

4. Learned counsel for the applicant submits that the deceased – Sanjay Pandhare had neither disclosed the alleged incident of assault, to the persons who carried him to the hospital nor to any other persons, including the members of his family. He submitted that the deceased was initially taken to the Sassoon Hospital where he was admitted for eight days, however, no case papers/documents of the Sassoon Hospital are included in the charge-sheet. He submits that a perusal of the medical case

papers of Gawde Hospital, where the deceased as admitted on 28.11.2014 read thus,

"H/o,
Before 8 days back. Patient fall down and had HI(head injury). In Bhigwangaon, then they brought patient to Dr. Thorat. They send patient to Dr.Deshpande. They shift patient to Sassoon Hospital. Today relative brought patient. Hence for further treatment and management."

5. Learned counsel for the applicant submits that no complaint was made, either by the deceased or any member of the family till his demise on 26.12.2014. He submitted that for the first time, the minor son of the deceased, aged 7 years has disclosed in his statement recorded on 26.12.2014, that his father (deceased) was assaulted by a wooden log by one Ishya i.e. the applicant. According to the learned counsel for the applicant, except this statement of the son which was recorded for the first time after more than a month, there is no

material to show that the applicant had assaulted the deceased.

6. Learned APP opposes the bail application. She submits that the applicant had assaulted the deceased with a wooden log on his head, pursuant to which he succumbed to the said injury on 26.12.2014.

7. Perused the papers. There is no recovery of any weapon as against the applicant. It appears that there is no motive alleged as against the applicant. Be that as it may, the FIR has been lodged after more than a month. It appears from the medical case papers of Gawde Hospital, that the deceased was conscious although drowsy, however, no statement of the deceased was recorded on 28.11.2014. There are no case papers/documents of the Sassoon Hospital in the charge-sheet, to show what was the

history given to the doctors, when he was admitted to the Sassoon Hospital. Investigation is complete and charge-sheet is filed.

8. Considering the aforesaid facts, the applicant is enlarged on bail on the following terms & conditions:

ORDER

(i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 15,000/- with one or two sureties in the like amount;

(ii) The applicant shall attend the Bhigwan Police Station, Pune on the first Saturday of every month between 10:00 a.m. to 11.00 a.m. till the conclusion of the trial;

(iii) The applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(iv) 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 concerned Police Station;

(v) The applicant to cooperate with the conduct of the trial and will attend the Court on the dates given by the trial Court;

(vi) The applicant shall not enter the jurisdiction of Madanwadi, Taluka - Indapur, District - Pune during the pendency of this case against him;

(vii) The applicant shall file his undertaking with respect to Clause (ii) to (vi) in the trial Court, within two weeks of his release;

(viii) 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.

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

10. It is made clear that the observations made herein 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.

All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)