

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 1273 OF 2015

Girish Maruti Parshuram ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Mr. A.M. Saraogi, advocate for Applicant.

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

Mr. Satish Wayal, PSI, Samta Nagar Police Station.

CORAM : SMT. SADHANA S. JADHAV,J
DATE : AUGUST 11, 2015

P.C.:

1 Heard the learned Counsel for the applicant and the learned
APP for State. Perused the papers.

2 This is an application under Section 439 of the Code of Criminal
Procedure, 1973. The applicant herein is arrested on 30/6/2014 in
Crime No. 246 of 2014 registered at Samtanagar Police Station for

offence punishable under Section 302, 452, 323 of the Indian Penal Code. The investigation is completed and charge-sheet is filed.

3 It is the case of the prosecution that on 29/6/2014 at about 10.15 p.m. one Kisan Laxman Deshmukh was near the public lavatory. That he was searching for Gopi. Hussain Shaikh had enquired with him as to why he was searching for Gopi and had pushed him. The old man Kisan Deshmukh had fallen down. His four years old grand-daughter started crying. At that juncture, the present applicant had intervened and enquired with Kisan Deshmukh. He had sympathies for the old man. By then, Hussainn Shaikh had returned home. It is alleged that present applicant had followed Hussain Shaikh in his house. He had caught hold of Hussain Shaikh and had abused him and mounted assault. Kisan Deshmukh was standing outside the house of Hussain Shaikh. Upon enquiry by the wife of Hussain Shaikh, Kisan Deshmukh had narrated to her the prelude to the incident. In the said altercation, it appears that the applicant had caught hold of the neck of Hussain Shaikh. That Hussain Shaikh

collapsed to the ground and had died due to asphyxia. Hence, the applicant is being prosecuted for offence punishable under Section 302 of the Indian Penal Code.

4 Initially, A.D. No. 110 of 2014 was registered under Section 174 of the Code of Criminal Procedure, 1973. After autopsy was conducted on the dead body, it was revealed that the cause of death is strangulation and therefore, the applicant is being prosecuted for offence punishable under Section 302 of the Indian Penal Code.

5 It is an admitted fact that the present applicant had no personal grievance or animosity with the deceased Hussain Shaikh. That he had picked up the cause of Kisan Deshmukh. The incident had occurred at the spur of the moment without any premeditation or leaving any time for passion to cool.

6 The learned Counsel for the applicant submits that the applicant has been arrested a year ago. Till today charge is not framed.

7 In view of the above observations, the applicant deserves to be enlarged on bail.

8 The abovesaid observations are prima facie in nature and are restricted to decide the application under section 439 of the Code of Criminal Procedure, 1973. The same shall not be considered while deciding the application for discharge or quashing of FIR or at the time of trial. The learned Trial Court shall decide the same on its own merits in accordance with law uninfluenced by the above observations.

9 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 more sureties in the like amount.

- (iii) The applicant shall report to the police station on 1st Sunday of every month between 10 a.m. to 1 p.m. till conclusion of the trial.
- (iv) The applicant shall also remain present on each and every date of trial.
- (v) Upon being enlarged on bail, the applicant shall furnish his permanent address, landline number, cell phone number to the investigating officer.
- (vi) Upon failure to attend any two consecutive dates either at police station or at the time of trial, the prosecution shall be at liberty to file an application for cancellation of bail.

10 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)