

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 1321 OF 2015

Abdulmobin Wahidkhan Pathan	... Applicant
Vs.	
The State of Maharashtra	... Respondent

Mr. Suddat J. Patil a/w. Mr. Kedar J. Patil and Ms. Trupti Bharadi,
Advocate for the applicant.

Mrs. R.V. Newton, APP for the respondent/State.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE : **JULY 29, 2015**

P.C.:

This Application is moved for bail, as the applicant/accused is prosecuted for the offence punishable under sections 302, 147, 149 of the Indian Penal Code and under section 4, 25, 27 of Arms Act in C.R. No. 169 of 2015 registered with Sangli City Police Station.

2. The incident of murder has taken place on 22nd November, 2014. Irfan Mulla, brother of deceased Imram gave information to the police that applicant/accused owe amount of Rs.50,000/- to deceased for committing murder of one Rafiq Shaikh. Accordingly, the deceased committed his murder. The applicant did not pay the entire amount of ransom to deceased and an amount of Rs.30,000/- was due from him. The applicant/accused asked the deceased to come to his house, as he wanted to pay the amount. So, the deceased and his brother, i.e. complainant went to the house of applicant/accused at around 10.30 p.m.

At that time, the applicant and his family members, who are co-accused, assaulted the deceased. The applicant assaulted him with knife. Yusuf Pathan assaulted him with sickle. Other family members also assaulted him. He was taken to the hospital but succumbed to injuries on the same day. Hence, the offence was registered. The applicant/accused was arrested on 23rd November, 2014. Hence, this Bail Application.

3. The learned counsel for the applicant/accused has submitted that the deceased was criminal. He used to extort money from the people and he was extorting money from the applicant/accused. On the night of 22nd November, 2014, the deceased arrived at the house of the applicant/accused, he was aggressive and demanded money and therefore in private defence, the applicant/accused and his family members attacked him to save themselves and in that attack, he died. The learned counsel for the applicant/accused submitted that there is no other witnesses corroborating the informant. The applicants/accused was falsely implicated in this case. They are innocent. He further submitted that the applicant/accused is in prison since last 8 to 9 months and therefore, he is to be bailed out.

4. Learned APP opposed the Application. She relied on the FIR, spot panchnama and postmortem report. She submitted that it is a case under section 302 and hence, the applicant is not to be granted bail.

5. Perused the FIR. The FIR specifies the role played by the applicant/accused. The submissions of learned counsel for the applicant/accused that the deceased was criminal and he might be blackmailing the applicant, however, the nature of attack if considered, *prima facie* it appears to be a clear case of murder. Primary opinion discloses that death is due to head injury. Postmortem report discloses that there were nearly 17 internal injuries including number of chop wounds on the body of the deceased. There is no eye witnesses. In view of this, I am not inclined to grant bail. Hence, the Application for bail is rejected.

(MRS.MRIDULA BHATKAR, J.)