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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1461 OF 2015

Mohammed Hakim Mohammed Umar Choudhari ..Applicant
Vs.
The State of Maharashtra ..Respondent

Mr. S.V. Kotwal with Mr. V.V. Purwant for applicant.
Ms. S.S. Kaushik, APP for the State.
Mr. Vishwas Patil, API, Boisar Police Station is present.

CORAM: A.S. GADKARI, J.

DATE : 20th November 2015.

P.C.

1 This is an application for bail in First Information Report No.I-08 of 2014 registered with Boisar Police Station, Thane rural under Sections 302, 307, 326, 143, 147, 148, 149, 323, 504 and 506 of the Indian Penal Code.

2 The first information report was lodged by one Navin Sankhe, an injured in the aforesaid crime about assault on him and his father by the applicant and other co-accused persons. In the said first information report, it is stated that on 13.1.2014 at 10.30 a.m. there were altercations between the first informant and the accused persons on account of parking of

vehicles. That in furtherance of altercations, the accused Fuzail Khan along with the applicant and other accused persons came at the spot. The accused Fusail Khan gave threat to the first informant and inflicted a blow on the head of the first informant with an iron rod. At that time the present applicant gave a blow with the aid of a wooden log on the head of his father (deceased) and Mihir Wade. The first information report was accordingly registered and investigation was started. After completion of the investigation, the police have now filed the chargesheet.

3 On perusal of the said chargesheet, it reveals that the complainant in his first information report has ascribed a role to the present applicant, that he had given a blow with the aid of wooden log on the head of his father Subhash Sankhe (deceased). In the statement of the wife of the deceased namely Smt. Suvarna Sankhe dated 22.2.2014, she has stated that, when she enquired with her husband about the injury, he informed her that the present applicant and Fuzail Khan with the aid of wooden log gave blow on his head and therefore he become injured. That her husband also told her that eight to ten other persons were with them and have also assaulted him by fist and kick blows and wooden logs. The witness Brmhanand Dubey in his statement dated 21.1.2014 has stated that the accused Fuzail Khan had assaulted Subhash Sankhe (deceased) with a

wooden log and that he will identify the said log. The medical certificate which is at page no.168 of the compilation mentions that the deceased had suffered one grievous injury on parito-oceipital region and an abrasion on lower back.

4 The learned Counsel for the applicant submits that the medical certificate contradicts the statement of the wife of deceased to whom the deceased had given oral dying declaration implicating the applicant with a specific role. I find substance in the submission of the learned Counsel for the applicant. Apart from the said fact, the witness namely Brmhanand Dubey has also ascribed a role of assault on the deceased to Faizal Khan and not to the present applicant.

5 In view of the above, I am inclined to grant bail to the applicant. Hence, the following order:-

(i) The applicant shall be released on bail in CR No.8 of 2014 registered with Boisar Police Station, Thane (Rural) on his furnishing PR bond of Rs.25,000/- with one solvent surety in the like amount.

(ii) The applicant shall attend the Boisar Police Station on every Monday between 10 a.m. to 12.00 noon during the pendency of the trial. ()

(iii) The applicant shall not tamper with the the prosecution evidence and/or influence the prosecution witnesses.

- (iv) The application is allowed in the above terms.

(A.S. GADKARI,J.)