

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 1818 OF 2014

Satish Shivaji Gawade. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Mr. Rahul S. Kulkarni, advocate for Applicant.

Mr. D.P. Adsule, APP for State.

CORAM : SMT.SADHANA S. JADHAV,J
DATE : JANUARY 7, 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 16th March,
2014 in Crime No. 111 of 2014 registered at Lonikand Police Station
for offence punishable under Section 302 of the Indian Penal Code.

3 It is the case of the prosecution that on 16th March, 2014 Jeevan Uttam Gaikwad lodged a report at the police station alleging therein that his father was an alcoholic. He was working with the present applicant. It is alleged that the present applicant was running a country liquor den. On 15th March, 2014, when the complainant returned home at 7 p.m., he had noticed that the door of his house was open and his father was not at home. He enquired with the neighbour. The neighbour had informed the complainant that on that day at about 3.30 p.m. present applicant had come to the house of the complainant and had taken father of the complainant in his Bolero Jeep. Neighbours had actually witnessed the applicant abusing the father of the complainant and assaulting him with fists and kick blows. The applicant was questioning him as to why he had not concealed the stock of country liquor. The complainant had then been to the house of the applicant and asked about the whereabouts of his father. The applicant had replied that the father of the complainant had not concealed the stock of country liquor and therefore, he had been to his house and slapped him. The applicant had further told the complainant to search for his father in the

village. The complainant could not find his father. He enquired with all the relatives. At night also, the complainant had made the best of efforts to search for his father.

4 On 16th March, 2014 at about 7.30 a.m. the complainant had been to answer nature's call and at that time, he saw the dead body of his father lying in an abandoned condition. His father had sustained severe bleeding injuries on his head. The blood clots were seen. Thereafter, the complainant informed the police patil and then lodged report at the police station on the basis of which Crime No. 111 of 2014 was registered against the applicant.

5 The learned Counsel for the applicant submits that at present, investigation is completed and charge-sheet is filed. Moreover, the applicant is a disabled person and that the disability is to the extent of 70 %. It is admitted that Bolero Jeep was specifically modified to be driven by handicapped person. It is admitted that the applicant could drive Bolero Jeep. Hence, the disclosure of the neighbour is

substantiated that the deceased had left the house in the company of the applicant.

6 The learned APP submits that it is pertinent to note that it is stated in the first information report that upon enquiry by the complainant, the applicant had not disclosed that the deceased had accompanied him in the Bolero Jeep. All that is disclosed is that he had slapped the deceased at his house and had left. At this stage, there is strong evidence against the present applicant that the deceased had left the house in his company. There is evidence of last seen together and soon thereafter, the deceased was not seen by any other person. The dead body was found behind the house of the deceased.

7 Learned Counsel for the applicant submits that case of the prosecution that the deceased was assaulted with stone is falsified for the simple reason that the applicant is 70 % disabled man.

8 Learned APP submits that it is true that there are certain lapses in investigation. However, the applicant cannot claim benefit of the said lapses at this stage. Learned APP submits that the injuries mentioned in column No. 17 appeared to have been caused by a hard and blunt object. According to the learned APP, the deceased must have been attacked in jeep itself. However, the panchanama of the jeep does not substantiate the same. The applicant cannot claim benefit of the said lapses since there is a strong evidence of last seen together.

9 In view of the above, the applicant does not deserve grant of bail. The application, being sans merit, stands rejected and disposed of accordingly.

10 It is made clear that the observations made hereinabove are prima facie in nature and the Sessions Court shall not be influenced at the time of trial.

(SMT. SADHANA S. JADHAV,J)