

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1857 OF 2014

Azeem Salim Shaikh

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Prakash Naik i/b Mr. Pawan Mali for Applicant
Ms. P. P. Shinde APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : JANUARY 9, 2015

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein has been charge-sheeted for offence punishable under section 302 in crime no. 22 of 2014 registered at Khadak Police Station, Pune.

2) It is the case of prosecution that on 04/02/2014, one Mujjamil @ Murga Shabbir Mokashi was celebrating his birthday. His friends had put up the loud speakers and the residents of the said area had requested them to lessen the volume of the speakers. There was an altercation between the residents of that area. Rushikant Darekar had objected to the same. There was an altercation

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over the said issue. Thereafter, Rushikant was assaulted by Murga and his associates including present applicant. It is alleged that present applicant had assaulted Darya with fist and kick blows on his abdomen. Thereafter, women residing in the area had requested Murga and his associates not to assault Darya as he would die. Thereafter, all of them had dragged Darya and took him in a four wheeler car i.e. Honda City and had taken him far away. Soon thereafter, dead body of Darya was found in an abandoned state.

3) Learned counsel for the applicant vehemently submits that the only role attributed to the present applicant is that he had assaulted the victim with fist and kick blows on his stomach and it cannot be said that the blows would be fatal or that he had intention to cause death of Darya. Upon perusal of the post mortem notes, it appears that the cause of death is head injury associated with blunt trauma on the abdomen. Post mortem notes would show that deceased had sustained as many as 14 injuries. There was fracture of right mandible. All injuries are ante-mortem injuries. There was brutal assault upon the victim. Applicant has been charge-sheeted under section 302 r/w 143, 147, 148 & 149 of Indian Penal Code. Common object of the accused was writ

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large. The role attributed to the applicant cannot be distinguished and cannot be considered in isolation, since the victim had died in the custody of the applicant and others. Hence, application deserves to be rejected.

4) Observations made herein above are prima facie in nature and are restricted to consideration of application under section 439 of Code of Criminal Procedure, 1973. Learned Sessions Court shall not be influenced by the same at the time of trial.

ORDER

(i) Application, being sans merits, stands rejected.

(SMT. SADHANA S. JADHAV, J.)