

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO.1779 OF 2015

Rajesh Dattatray Waghmare ...Applicant

Versus

The State of Maharashtra ...Respondent

.....

Mr. Umesh Mankapure for the Applicant.

Smt. Geeta Mulekar, APP for the Respondent -State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : 16th NOVEMBER, 2015.

P. C. :

This is an application for bail filed by the aforesaid Applicant, who is an accused in Crime No.117 of 2015 registered with Miraj City Police station, Dist. Sangli, for the offences punishable under sections 302, 307, 324, 323 and 506 of the IPC.

2. Heard the learned counsel for the Applicant and the learned APP for the Respondent -State.

3. The learned counsel for the Applicant has submitted that the Applicant is in custody since 21st May, 2015. He has further submitted that investigation is complete and that prima facie there is

no material to implicate the Applicant under section 302 of the IPC.

4. The learned APP submitted that the Applicant inflicted head injuries which has resulted into the death of Rajesh Shivsharan. She has further submitted that the Applicant had also threatened to cause death to the family members of the deceased while attending the funeral of his daughter and that NC was already registered so that it proves that conduct of the Applicant is not proper for seeking bail.

5. The records prima facie reveal that the Applicant herein was married to the sister of the deceased Rajesh Shivsharan. The FIR was registered by Sambhaji Tukaram Shivsharan, father of the deceased on 20th May, 2015. The FIR reveals that on 18th May, 2015 at 9.30 p.m. the Applicant was assaulting his wife and when Rajesh Shivsharan intervened, the Applicant assaulted him with kicks and fist blows. It is stated that the Applicant had pushed Rajesh Shivsharan, as a result he fell on the bricks and sustained head injury. Said Rajesh Shivsharan was admitted in the hospital and he expired on 24.5.2015. The post mortem report indicates that the deceased sustained CLW over right ear and CLW of 2x2 cm. over amputal region. As per the post mortem report the death was due to head injury.

6. The records prima facie indicate that the incident was not pre meditated but occurred on the spur of the moment. The Applicant had not inflicted injuries by means of any weapon but had merely assaulted Rajesh Shivsharan by kicks and blows. The Applicant had pushed him and as a result Rajesh Shivsharan had fallen on bricks and sustained head injury. The material on record therefore, does not prima facie reveal that the Applicant had intention of causing the death of Rajesh Shivsharan. Considering the nature of the offence, so also considering that the investigation is complete, in my considered view the Applicant is entitled for bail.

7. Hence, the application is allowed. The Applicant is ordered to be released on bail on furnishing bail bond of Rs.20,000/- with one surety in the like amount to the satisfaction of the Additional Sessions Judge-2, Sangli. Needless to state that the Applicant shall not interfere with the family members of the victim and the Applicant shall stay away from Miraj City for six months.

(ANUJA PRABHUDESSAI, J.)