

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1862 OF 2015**

Ramji Kanji	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. K. A. J. Merchant for the Applicant

Ms. Rutuja Ambekar, A.P.P for the Respondent-State

Ms. P. H. Kantharia, A.P.P for the Dadra Nagar Haveli

CORAM : REVATI MOHITE DERE, J.
FRIDAY, 23RD OCTOBER, 2015

P.C. :

1. Heard learned Counsel for the applicant and the learned A.P.P for the State.

2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 19 of 2015 registered with the Diu Police Station, for the alleged offences punishable under Sections 341, 504, 323, 506 r/w 34 of the Indian Penal Code. Subsequently, Sections 308 and 302 were added after the complainant succumbed to his injuries.

3. According to the prosecution, the incident took place on 2nd May, 2015 at about 8:15 p.m. The complainant is the deceased himself and as such the complaint is treated as a dying declaration. It appears that some birthday celebration was going on, in which, fire crackers were being burst. It appears that a spark of the said fire crackers landed on the house of the complainant (deceased) and the eastern side of his house caught fire. Thereafter, the said fire was extinguished by the family members of the complainant. It appears that the complainant (deceased) along with his family members proceeded towards the said place where the birthday celebration was going on. It is alleged that on the way to the said place, the applicant stopped him, abused him and gave a blow with a stick on his head. Thereafter, the co-accused is also alleged to have come on the spot and pushed the other persons, who were present there.

4. Learned Counsel for the applicant submits that even if the prosecution case is taken as it stands, no offence under Section 302 IPC is disclosed. He submits that the incident has taken place on the spur of the moment and that the applicant is alleged to have assaulted the complainant

with a stick. He submitted that the complainant died after 10 days i.e. on 12th May, 2015.

5. Learned A.P.P submits that there are five persons in the said case who have witnessed the assault.

6. Perused the papers. The incident in question has taken place on 2nd May, 2015; the FIR was lodged on 3rd May, 2015 and the complainant succumbed to his injuries on 12th May, 2015. It appears that the injuries sustained by the complainant was a lacerated wound 4 x 2 cm on the parietal region. The weapon with which the complainant was assaulted, was a stick. The complainant succumbed to the injuries after almost ten days.

7. Considering the nature of allegations and the fact that the investigation is complete and charge-sheet is filed, the applicant is enlarged on bail on the following terms and conditions :

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 15,000/- with one or two sureties in the like amount;
- (ii) The applicant shall attend the concerned Police Station on the first Saturday of every month from 10:00 a.m. to 11:00 a.m for a period of 12 months from the date of the order;
- (iii) The applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (iv) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;
- (v) The applicant to cooperate with the conduct of the trial;

(vi) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

8. The Application is allowed in the aforesaid terms and is accordingly disposed of.

9. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

10. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.