

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

CRIMINAL BAIL APPLICATION NO. 1979 OF 2015

Sagar Sakharam Udare ..Applicant

v/s.

The State of Maharashtra. ..Respondents

Mr. Aniket Nikam for the Applicant

Mrs. Veera Shinde, APP for the Respondent-State.

Mr.B.S.Buchade, Police Sub Inspector, Pimpri Police Stn. Pune present.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED : DECEMBER 01, 2015.

P.C.

1. This is an application for bail filed by the aforesaid applicant who is one of the accused in Crime No.175 of 2015 registered at Pimpri Police Station, for offence under Section 302 of the Indian Penal Code.

2. Heard Shri Nikam, the learned counsel for the applicant. He submits that there is material variance in the statements of the eye witnesses. He has submitted that the applicant has not inflicted any

injury on the deceased which caused his death. He therefore claims that there is no prima facie material to show the involvement of the applicant in causing the death of Sandeep.

3. Learned APP submits that the offence is of grievous nature. She has submitted that the applicant was involved in assaulting the deceased.

4. I have perused the records and considered the submissions advanced by the learned counsel for the applicant and the learned APP for the State. The records prima facie reveal that on 14.3.2015 at about 10.30 p.m. the mother of the deceased had lodged the FIR stating that on 14.3.2015 at about 10.30 p.m. she had heard noise outside her house and when she opened the door, she saw the applicant and the other co-accused Dadu assaulting her son Sandip by means of wooden stick. She had stated that the accused had run away from the spot on seeing her. She has further stated that when she enquired with her son, he had told her that while he was passing by the house of the accused, they had told him to provide them

alcohol and when he refused to give them alcohol they assaulted him with wooden sticks.

5. The statements of the neighbours viz. Nilesh Khilare, Sachin Khilare, Nitin and other eye witnesses prima facie reveal that the applicant herein had assaulted the deceased Sandip by kicks and blows while the other co-accused Dadu had assaulted him by means of wooden stick. All these witnesses have further stated that the deceased had told his mother that the applicant had assaulted him with kicks and blows as he had refused to provide alcohol to the applicant and the co-accused.

6. A perusal of the complaint as well as the statements of the witnesses prima facie indicates that the incident was not pre-planned, but had occurred at a spur of the moment. The statements of the witnesses prima facie reveal that the applicant herein had not inflicted any injury by means of a wooden stick on the vital part of the body. On the contrary, the material on record reveals that the applicant had assaulted the deceased by kicks and blows. The

nature of allegations levelled and the role attributed to the applicant accused, in my considered view would justify grant of bail. The applicant is a permanent resident of Pune and as such there are no chances of his absconding. The chargesheet is already filed and the presence of the applicant is no longer required in the custody.

7. Under the circumstances, the application is allowed on the following terms and conditions:

- i) The applicant be released on bail on the applicant furnishing bail bond of Rs.25,000/- (Rupees Twentyfive Thousand Only) with one or two solvent surety/is in the like amount to the satisfaction of the learned Sessions Judge, Pune.
- ii) The applicant shall not tamper with the evidence in any manner.
- iii) The applicant shall appear before the court on each and every date of hearing.

(ANUJA PRABHUDESSAI, J.)