

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2316 OF 2014

Lalya @ Khandu Ashok Mane	...	Applicant
vs.		
The State of Maharashtra	...	Respondents

Mr. Subhash Jha a/w Ms. Rushita Jain i/b. Law Global for the applicant.
Ms. P. P. Shinde, APP, for the respondent-State.

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 12th January, 2015.

P.C.

Heard. This is an application under Section 439 of the Code of Criminal Procedure, 1973. The applicant herein is arrested on 12.7.2014 in Crime No.290/2014 registered at Dattawadi Police Station for the offences punishable under Sections 302, 365, 143, 147, 148, 149, 120-B and 201 of Indian Penal Code. The investigation is completed and charge-sheet is filed in the month of October, 2014.

2. It is the case of the prosecution that the present applicant happens to be the real brother of Bapu Mane i.e. the deceased. It is alleged that Bapu was addicted to alcohol. That he used to trouble his parents unnecessarily. He had harassed the members of the family. Despite best efforts, his ways could not be

mended either by the parents, brothers or other members of the joint family. On 7.7.214, Laxmibai Ashok Mane i.e. mother of the present applicant and the deceased, lodged a report at the police station. That on 6.7.2014, her son Bapu was at home. One of her relative Baba Jadhav and 4 to 5 persons cam to her house and had forcibly taken away her son Bapu in a vehicle. That Bapu was taken by the river side. Bapu did not return for quite some time. The complainant suspected a foulplay and, therefore, she along with her husband had gone to the river side to search for Bapu. Their son Kiran who had also gone in search of Bapu, informed them that Bapu has been assaulted by sticks, fist and kick blows. The complainant and her husband went on a motor-cycle and got Bapu home. He was in an injured condition. She had enquired with Bapu. Upon enquiry, he had disclosed that Baba Jadhav and his associates had taken him away and had enquired with him about the pigs and they had assaulted him with fist and kick blows. He was made to rest. On the next day i.e. Monday, he was taken to the hospital. That he had complained of body ache. When they returned, Bapu was made to sleep at home. At about 11.30 p.m. they realized that Bapu was motionless. They informed the police. That Bapu was taken in an ambulance to the hospital, where he was declared dead.

3. Upon perusal of the statement of the eye-witnesses, who happened to

be the driver of Xylo Car in which Bapu was taken. It appears that the present applicant along with associate had assaulted Bapu with an intention to teach him a lesson. It is alleged that Bapu was assaulted by the present applicant and his associates.

4. Th learned APP submits that there is an eye-witness to the incident. That a specific overt act has been attributed to the present applicant. He has been identified in the test identification parade and, therefore, he does not deserve grant of bail. Upon perusal of the post-mortem notes, it appears that the deceased had sustained as many as 22 contused abrasions all over his body. It is pertinent to note that there was no corresponding internal injury on any vital parts of the body. Deceased Bapu was alive when he was taken home. From the perusal of FIR it does not appear that the complainant had disclosed the name of of the resent applicant as one of the assailants.

5. The learned counsel for th applicant submits that it is true that the applicant had assaulted his brother only ro teach him a lesson, but at that time, the applicant and others had no intention either to eliminate him or to cause such injuries which would result into his death. Therefore, according to the learned counsel, the applicant deserves grant of bail. One of the co-accused Yasin

Bagwan has been enlarged on bail by this Court in Criminal Application No.2410 of 2014. The role attributed to the present applicant is identical.

6. Taking into consideration the papers of investigation and the submissions advanced across the Bar, this Court is of the opinion that the applicant has made out a prima facie case for grant of bail.

7. The observations made hereinabove are prima facie in nature and the learned Sessions Judge shall not be influenced by the same at the time of trial.

ORDER

The application is allowed. The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- with one or two sureties in the like amount.

The application is allowed and disposed of.

(SMT.SADHANA S.JADHAV, J.)