

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2485 OF 2014

Ankush Sakharam Indalkar

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. R. V. Bansode for Applicant
Mr. D. P. Adsule APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : FEBRUARY 13, 2015

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is arrested on 07/07/2014 in crime no. 99 of 2014 registered at Dahiwadi Police Station, initially for offence punishable under sections 307, 324, 323, 504 r/w 34 of Indian Penal Code, subsequently, section 302 of Indian Penal Code has been added and applicant has been charge-sheeted for offences punishable under sections 302, 324, 323, 504 r/w 34 of Indian Penal Code.

2) It is the case of prosecution that on 20/06/2014, daughter of Popat Indalkar was proceeding towards her college. At about 11.30 am, she

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suddenly realized that her stole was being snatched. She turned back and saw the present applicant. She rescued herself. He was insisting upon her to accompany him or else he would kill her father. She rescued herself. Applicant had also proceeded for his own work. She informed her father about the said incident. Her father along with her uncle and cousins came to the spot. They saw the friend of applicant in the same place. They inquired with him about the whereabouts of the applicant. He had told them that he has in Satre garage. They all went to Satre garage. There was an altercation between applicant and father of the victim and her cousins. It is alleged that they had asked the applicant to accompany them to the police station and at that time, applicant is alleged to have dealt with fist and kick blows upon Popat Indalkar. He had kicked Popat Indalkar on his abdomen. That Popat Indalkar had fallen in the surfacing ram. After Popat Indalkar had fallen in the ram, applicant is alleged to have pelted a brick at him. Popat had sustained traumatic injuries. He was taken to Patil Hospital at Dahiwadi. Nephew of Popat Indalkar namely Vishal Balasaheb Indalkar lodged a report about the said incident at the police station on 21/06/2014, on the basis of which, crime no. 99 of 2014 was registered against the applicant for offence punishable

under section 307 of Indian Penal Code.

3) Perused papers of investigation. It appears from the medical case record dated 01/08/2014 issued by doctor S. A. Rege Unit that there was alleged history of assault by neighbour with kicks and fists. Patient had fell down in a trench which was 3 to 4 feet deep. 'Nasal bleeding, no external injury, no fracture'. Patient was taken to Satara Private Hospital etc.

4) Learned APP upon instructions submits that from the first day, patient was in coma. He was being treated at various hospitals. He had expired on 17/09/2014.

5) It is a matter of record that the applicant had assaulted Popat Indalkar with fist and kick blows. Upon perusal of post mortem notes, it is clear that Popat Had not sustained any external injury, but craniotomy was conducted upon him. Coloumn no. 19 also shows depression (Post craniotomy) temporary parital region.

6) Learned counsel for the applicant rightly submits that it can be the case of medical negligence. Victim, the daughter of Popat Indalkar had lodged a report against applicant on the same day i.e. on 21/06/2014 about the incident prior to the altercation between her father and the applicant. On the basis of her statement, crime no. 100 of 2014 is registered against applicant for offence punishable under section 354 (A), 506 of Indian Penal Code. Applicant has been enlarged on bail in crime no. 100 of 2014.

7) Learned counsel for the applicant rightly submits that there was no premeditation to assault Popat Indalkar. The entire incident has occurred on the spur of the moment, in the course of altercation. Medical records show that he was assaulted with fist and kick blows and had fallen in a trench.

8) Taking into consideration all these aspects, coupled with the fact that investigation is completed and charge-sheet is filed and the applicant has been in jail for more than 6 months, this Court is inclined to grant bail to the applicant. Learned Sessions Judge shall not be influenced by the aforesaid observations at the time of trial.

ORDER

- (i) Application is allowed.
- (ii) Applicant be enlarged on bail on furnishing P. R. bond in the sum of Rs. 15,000/- and one or two sureties in the like amount.
- (iii) Applicant shall not enter into the jurisdiction of village Dahiwadi and village Ukirde for a period of 6 months.
- (iv) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)