

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2510 OF 2014

Sunil Silon Nanavat. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Smt. Anita A. Agarwal, advocate for Applicant.

Ms. Veera Shinde, APP for State.

CORAM : SMT.SADHANA S. JADHAV,J
DATE : FEBRUARY 4, 2015

P.C.:

1 Heard the learned Counsel for the applicant and the learned
APP for State. Perused the papers.

2 This is an application under Section 439 of the Code of Criminal
Procedure, 1973. The applicant herein is arrested on 6th March, 2014
in Crime No. 112 of 2014 registered at Hinjewadi Police Station
initially for offence punishable under Section 326, 504, 506 read with
Section 34 of the Indian Penal Code. Subsequently, the injured had
succumbed to the injuries on 14/3/2014. The cause of death was

“death due to complications following head injury”. Hence, Section 302 of the Indian Penal code was added.

3 It is the case of the prosecution that on 5/3/2014 Babitabai Laxman Marwadi Kumbhar lodged a report at the police station alleging therein that Silon Pran Nanavat happens to be her distant relative. 15 to 16 years ago there was a quarrel with Silon over some land. That Silon, his two sons Sordev and Sunil and his son-in-law Vikas had nurtured grudge against her and her husband. They had raised quarrel on the earlier occasions. But due to their fear she had not lodged any report. On 4th March, 2014 Silon Nanavat had abused her husband on the cell phone and had told him to leave the place where he was staying.

4 On 5/3/2014 at about 11 a.m. she alongwith her husband had been to the forest to bring fuel wood. When they were proceeding from Kasarsai towards Kusgaon dam, Silon and his sons (one of them is the present applicant) alongwith his son-in-law Vikas apprehended

them. They started abusing them and told them not to stay at Kasarsai. They assaulted them with Bamboo and stick. People had gathered on the spot and had rescued them from the clutches of Silon and his sons. The accused had fled away in their white colour car. One Balu Thorve had taken them on his motorcycle and dropped them in the village. When they were proceeding towards their house, Silon and his sons again came in the Swift car. They alighted from the car. Silon and Sunil had assaulted her husband Laxman with bamboo stick whereas, Sordev and Vikas had assaulted him with iron pipes. Her husband had fallen on the ground. He had sustained injury to his head. It was a bleeding injury. Vikas also assaulted the complainant. She has specifically stated that all the accused had assaulted her husband with bamboo stick and iron pipe. She is the eye witness to the incident.

5 The learned Counsel for the applicant submits that initially the injured was taken to the hospital and it appears from the record that the injured Laxman had sustained one sutured CLW of size 12 to 15

c.m. on right fronto parietal region, CLW on left forearm posterior aspect bony deep wound, sutured CLW on posterior aspect of right forearm. CT Scan showed that the injured had sustained acute extra cranial and intra cranial haemorrhage with mass effect. There was fracture of both parietal bones. The learned Counsel further submits that there is variance in the injury certificate and the post mortem notes. The post-mortem notes would indicate that the injured had sustained as many as 7 external injuries. The learned Counsel refers to injury No. 5 which is shown as stitched wound present over left side abdomen extending from midline, from a point 3 cm below umbilicus, to left laterally and horizontally for 8 cm, with 7 stitches insitu.(Bone harvesting done as a part of therapeutic craniotomy).

6 The learned Counsel submits that the eye witness had not stated that the accused had assaulted the injured on his stomach and therefore, injuries mentioned in the post mortem notes do not match with the injuries in the first medico legal certificate.

7 The learned APP submits that the accused were simultaneously mounting assault with bamboo and iron rods and therefore, it cannot be expected from the first informant to definitely state the situs of the injuries sustained at the hands of each of the accused persons. The eye witness has stated that they had all mounted assault simultaneously. The injury on the abdomen happens to be an internal injury which had to be opened.

8 According to the learned Counsel for the applicant, the present applicant had only assaulted the injured with a bamboo. According to her, it cannot be said that the applicant had an intention to cause death of Laxman.

9 All these aspects pertain to appreciation of evidence at the time of trial and hence, this Court is not inclined to grant bail. This is a case of direct evidence. There are eye witnesses who have stated that they have seen all the accused persons fleeing in the car. In the facts

and circumstances of the case, the applicant does not deserve grant of bail.

10 The learned APP further submits that in the present case trial has commenced. The charge is framed against accused for an offence punishable under Section 302 read with Section 34 of the Indian Penal Code. In view of this, the application being sans merits stands rejected.

11 In the facts and circumstances of this case, learned Sessions Judge seized with the Sessions Case No. 402 of 2014 is requested to make an endeavour to conclude recording of substantive evidence preferably within 9 months.

12 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)