

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2739 OF 2014

Paulas @ Chagan Bhiwa Soonawane ... Applicant
vs.
The State of Maharashtra ... Respondents

Mr.Satyavrat Joshi,Advocate for the applicant
Mr. Arfan Sait, APP, for the respondent-State.

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 9th March, 2015.

P.C.

Heard. This is an application under Section 439 of Cr.P.C. The applicant herein is arrested on 11.2.2014 in Crime No.72 of 2014 registered at Nigdi Police Station.

2. The learned APP submits that despite several reminders, there is no co-operation from the investigating agency or the investigating officer. The learned APP had sought adjournment on two earlier occasions for want of instructions. However, today also he does not have specific instructions and neither the original papers of investigation.

3. It is the case of the prosecution that on 10.2.2014, the applicant herein was celebrating the 20th birthday of his son Sushil. He had called the friends of Sushil for celebration. The speakers were installed. There was high volume. Some boys were creating a ruckus under the influence of alcohol. That the present applicant was also present amongst the young boys. At that time, the brother of the present applicant i.e. Navnath came out of the house and enquired with the applicant about the accused for commotion. It is alleged that the applicant was annoyed with the enquiry and, therefore, had given a hard slap on the face of his brother Navnath. It appears from the first information report that there was bleeding from the mouth of Navnath and he fell unconscious. He was taken to the hospital where he was declared dead. On 11.2.2014, the wife of the deceased Sunita Navnath Sonawane lodged a report at the police station on the basis of which crime was registered against the applicant for the offence punishable under Section 302 of IPC. The investigation is completed and charge sheet is filed.

4. Upon perusal of the compilation of the charge sheet, it is apparent on the face of the record that deceased Navnath was not assaulted with any particular weapon. The post-mortem notes do not reveal any injury sustained by the deceased.

5. The applicant had approached the Court of Sessions seeking bail under Section 439 of Cr.P.C. In para 6 of the order, the learned Sessions Judge has observed that he had perused the final report of cause of death which indicated that the deceased died due to Cardiac arrest due to severe Pulmonary congestion Ischaemic heart decease. The learned Sessions Judge has also observed that the applicant had given a powerful blow (slap) to the deceased. That the deceased fell on the ground and died instantly. Therefore, the learned Sessions Judge has rejected the said application.

6. Prima facie, this Court is of the opinion that the offence may not fall under Section 302 of IPC. It would be a matter of evidence adduced at the time of trial. Prima facie, the applicant has made out a case for grant of bail.

7. The observations made hereinabove are prima facie in nature and shall not be considered for quashing of FIR, discharge application or at the time of trial.

ORDER

(i) 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.

(ii) The applicant shall report to the Nigdi Police Station on first Sunday of every month till the conclusion of the trial.

Applications stands disposed of.

(SMT.SADHANA S.JADHAV, J.)