

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 5627 OF 2016

Vilas s/o. Sudam Khandagale .. Applicant
Age. 26 years, Occ. Agri.,
R/o. Malipargaon, Tq. Majalgaon,
Dist. Beed.

Versus

The State of Maharashtra .. Respondent

Mr.S.J. Salunke, Advocate for the applicant.
Mr.S.M. Ganachari, APP for respondent/State.

CORAM : A.M. BADAR,J.

DATED : 19.10.2016

P.C. :-

1. The applicant/accused in Crime No.196 of 2015, registered with Majalgaon Police Station, Dist. Beed, for the offences punishable under section 302, 504 of the Indian Penal Code, by this application, is seeking his release on bail after filing of charge-sheet.

2. Heard learned Counsel for the applicant/accused. He argued that even if this charge-sheet is taken as it is, then also nothing more than offence under section 325 of the Indian Penal Code is made out.

3. Learned A.P.P. opposed the application by contending that the crime in question is serious. There was assault and death was due to fatal injury to pancreas.

4. I have carefully considered the rival submissions and perused the charge-sheet. The question is whether the death of Ramesh Sonawane occurring on 30.12.2015 is homicidal caused with requisite intention and knowledge by applicant Vilas Khandagale. The F.I.R. lodged by the informant-mother on 31.12.2015 shows that the incident of assault on Ramesh took place two months earlier and thereafter he was required to take treatment at several hospitals, such as, Government Hospital-Ambajogai, Kamal Nayan Bajaj Hospital-Aurangabad, Ghati Hospital-Aurangabad and K.E.M. Hospital-Mumbai. The charge-sheet does not contain papers of medical treatment of the deceased of these hospitals. Ultimately, Ramesh died at his house on 30.12.2015 and therefore the F.I.R. is lodged on 31.12.2015 by his mother.

5. Perusal of the F.I.R. and statements of Ramnath Soje, Khandu Maskar, Baburao and Sopan goes to show that under influence of liquor, Ramesh (since deceased) was quarreling with applicant Vilas. The issue seems to be

loss of a currency note of hundred denomination and apprehension of the applicant that the deceased is pointing finger of accusation towards him. It is seen that because of persistent quarrel by the deceased, the applicant called mother of the deceased on the spot. There according to the prosecution case, the applicant had given fist blows and kick blows to Ramesh requiring him to take medical treatment for about two months. Papers of this medical treatment at several hospitals are not available in the charge-sheet.

6. In order to make out offence punishable u/s 302 I.P.C., proof of intention as well as knowledge is necessary. In the case in hand, even according to learned A.P.P., there was sudden provocation by the deceased to the applicant resulting in the incident in question. Be that as it may, all this will have to be looked into at the time of trial. The death was due to complications which arose because of pancreas injury.

7. Considering the manner in which the incident took place and the evidence against the present applicant, his further pre-trial detention is not required though offence alleged against him is under section 302 of the Indian Penal Code. Hence, the order:-

O R D E R

- i) The application is allowed.
- ii) Applicant/accused - Vilas s/o. Sudam Khandagale in Crime No.196 of 2015, registered with Majalgaon Police Station, Dist. Beed, for the offences punishable under section 302, 504 of the Indian Penal Code, be released on bail on executing P.R.Bond of Rs.15,000/- [Rupees Fifteen Thousand] and on furnishing surety in the like amount.
- iii) As a condition of this Order, the applicant shall not extend any threat, inducement or promise to the persons acquainted with the facts of the accusation so as to dissuade them from disclosing the same either to the police or the Court.
- iv) The applicant shall not tamper the evidence of the prosecution.
- v) The applicant to co-operate the trial Court in the expeditious disposal of trial against him.

[A.M. BADAR, J.]