

sas

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.4459 OF 2013

Jalinder Bajrang Mohite

..Petitioner.

V/s.

The State of Maharashtra and Ors.

..Respondents.

Mr.Pratap Patil for the petitioner.

Mrs.M.M. Deshmukh, APP for the respondent.

**CORAM : NARESH H.PATIL AND
A.M.BADAR, JJ.**

DATED : 5TH APRIL, 2016

P.C. :-

1. By this petition under Article 226 of the Constitution of India, the petitioner - father of deceased Rohit Mohite - is praying for directing the respondents to conduct further investigation of the offence bearing C.R.No.176/12 under section 302, 201 read with 34 of the Indian Penal Code, 1860 registered with Tasgaon police station, District Sangli.

2. Heard learned counsel appearing for the petitioner.

He argued that his deceased son Rohit was serving in Army and was posted at Shrinagar, 102 Regiment. On 18th November, 2011, Rohit came back to his native place i.e. village Manjrade, Tasgaon, District Sangli. Learned counsel further argued that marriage of Rohit was to be performed. On 14th December, 2012 Rohit left home at 7.30 p.m. by stating that he is going to attend the party arranged by his friends viz. accused persons Suresh Krushna Kamble, Mahesh Tanaji Salunkhe, Sanjay Govind Mohite and Deepak Vilas Kharade. According to learned counsel for the petitioner, deceased had advanced hand loan to the accused persons and he was to demand repayment of the said amount. Rohit did not return back on 4th December, 2012. On 5th December, 2012 one Pandharinath visited the house of the petitioner and informed that local leader Dinkar Patil had called the petitioner at his place. The petitioner then came to know about the death of his son Rohit. According to learned counsel for the petitioner, Rohit was done to death by his four friends as Rohit had demanded refund of hand loan advanced to them. Learned counsel appearing for the petitioner submits that the police had not investigated the case properly. He submitted that statement of material witnesses were not

recorded. The statements of the witnesses corroborating the incident are also not recorded and because of political pressure, there was laxity in investigation. Therefore, learned counsel for the petitioner contended that there is necessity for further investigation of the offence through the State C.I.D.

3. As against this, according to learned APP there is thorough investigation of the offence and on completion of investigation, charge-sheet came to be filed against four accused persons. He further argued that cognizance of the alleged offence is already taken and case is committed to the Court of Sessions. Learned APP further submitted that the accused would be put to trial for offence punishable under section 302, 201 and 34 of the Indian Penal Code. The case of the prosecution is based on circumstantial evidence.

4. We have carefully perused the documents and the charge-sheet. From the perusal of the charge-sheet, it is seen that all four friends of deceased Rohit are arraigned as accused in the crime in question, they are charge-sheeted. The Investigating Officer had arrested the accused. Statements of several witnesses are recorded and charge-

sheet shows that the prosecution intends to rely on the evidence of in all 53 witnesses. Dead body of Rohit was sent for autopsy, the post mortem report shows that he died due to hemorrhagic shock due to intra cerebral bleeding because of lung injury. The map of the scene of offence was also drawn during the course of investigation. Perusal of the charge-sheet further shows that officer had recorded statement of Shobha Narayan Mohite who had disclosed that accused Sanjay Mohite had been to her house for collecting utensils for cooking food. Thereafter, accused Mahesh Salunkhe had visited her house. Her statement makes it clear that a party was arranged by accused persons. Statement of Rekha Jaliner Mohite - mother of deceased Rohit - shows that the accused persons had taken hand loan from her son Rohit and Rohit was to take back the said amount from the accused persons. Her statement further shows that on 4th December, 2012 her son Rohit told her that his friends i.e. accused persons had arranged for a party and he was going to attend the dinner party. But Rohit did not return back. Similar is the statement of Manjusha Mohite, aunt of deceased Rohit. Statement of Tanaji Govind Kharade reveals that he had given money to accused persons for arranging the party which was

to be attended by Rohit. There are several other statements recorded by the investigating officer during the course of investigation. Considering the fact that the entire case is based on circumstantial evidence, it is not possible to conclude that there is lacuna in investigation warranting further investigation. However, we make it clear that the investigating officer is free to conduct further investigation in the matter and to file supplementary charge-sheet in case found necessary.

5. The petition is disposed of.

(A.M. BADAR, J.)

(NARESH H.PATIL, J.)