

FARAD CONTINUATION SHEET No.IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.41 OF 2016

Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mrs. Mallika Ingale for the Applicant.

Smt.S.S.Kaushik,APP. For the State.

CORAM : A.S.GADKARI, J.

DATE : 23rd August, 2016

P.C.

This is an application for bail under Section 439 of the Cr. P. C. in CR No.148/2015 registered with Dahisar Police Station, Mumbai under Section 302 of the Indian Penal Code.

2) Heard the learned counsel for the applicant and the learned APP. Perused the copy of the charge sheet annexed to the application.

3) The date of incident is 28.3.2015. It is the case of the prosecution that deceased Rahul was in inebriated condition and at about 12.00 to 12.15 (0.15 a.m.) was creating ruckus near the Pandol of Ramnavmi. At that time, the applicant tried to explain him and requested him not to create ruckus at the said place. The deceased was shouting very loudly at that time. The applicant therefore, got enraged and assaulted the deceased with fist and kick blows. The witnesses who were present near the Pandol pacified the said scuffle and directed the deceased Rahul to go to his house. That, Rahul was found unconscious in the said vicinity. He was admitted in the hospital by his brother and other persons at about

3.00 a.m. On 28.3.2015. Rahul succumbed to the injuries while undergoing treatment. The first information report is lodged by the father of the deceased Rahul. After completion of investigation, the police have submitted the charge sheet.

4) The cause of death as mentioned in the postmortem report is "Death due to hemorrhage and shock due to multiple injuries (unnatural)". It is to be noted that in Column no.17 of the postmortem notes it is stated that there also external injuries in the nature of abrasion. The eye witnesses to the incident have stated that deceased Rahul was under the influence of liquor and he was shouting and creating ruckus in front of Saibaba Mandir where the people from the vicinity were making preparation for celebration of Ramnavami. It prima facie appears from the statements of the witnesses that when the applicant tried to explain and pacify the deceased Rahul, scuffle ensued and in the same the applicant assaulted the deceased with fist and kick blows. As stated earlier, the witnesses have specifically stated that they intervened in the matter and directed the deceased Rahul to go to his house. It further appears that the alleged incident occurred due to grave and sudden provocation given by the deceased to the applicant.

The learned APP on instructions submitted that there are no antecedents at the discredit of the applicant. In view of the above, I am inclined to release the applicant on bail.

Hence, the following order.

a) The applicant be released on bail in CR No.148/2015 registered with Dahisar Police Station on his furnishing PR bond of Rs.25,000/- with one or two solvent local sureties in the like

amount.

- b) After his release from Jail the applicant shall attend the Dahisar Police Station, on every 1st Monday of the month between 11.00 a.m. to 2.00 p.m. till the conclusion of the trial.
- d) The applicant shall not tamper with the evidence and/or influence the prosecution witnesses.
- e) The application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)