

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.113 OF 2016

George Arun Fernandis

..Applicant

Vs.

State of Maharashtra

..Respondent

Mr. Sanjeev Kadam for applicant.

Mr. S.H. Yadav APP for State.

Mr. Ghuge, API, DCB, CID Unit No.6, Mumbai present.

CORAM : A.S. GADKARI, J.

DATE : 25th February 2016.

P.C.:

1] This is an application under Section 439 of Cr. P.C. The applicant is seeking bail in CR No.7 of 2015 registered with Tilak Nagar Police Station, Mumbai for the offence punishable under Sections 328, 363, 302 read with 34 of IPC and under Section 37(1)(A) of Bombay Police Act.

2] The name of the deceased is Prasad Mandavkar. The date of incident is 7.1.2015. The prosecution case is that, the accused No.1 Sameer Rohikar was having an affair with Ms. Manisha Mindhe. The accused No.1 Sameer came to know that Manisha was also having illicit relation with deceased Prasad Mandavkar. It is the prosecution case that the co-accused Sameer warned Prasad to keep distance from Manisha. It is the further prosecution case that, the Police Control Room received a message on 7.1.2015 and accordingly the Police reached at the spot and took the injured to Rajawadi Hospital. The injured Prasad succumb to his injuries at 2.00 a.m. on 8.1.2015. Shri Dattatraya Mali, a Police Officer lodged the FIR on behalf of the State against unknown person. After completion of investigation, police have filed chargesheet.

3] The record discloses that the applicant was working at the Fruit Juice Stall near Breach Candy Hospital along with co-accused Rohit Bangera. The accused No.1 Sameer Rohikar was working as a driver in the adjacent society of the said stall namely Seaface Park Society. The prosecution has propounded two circumstances against the applicant. Firstly, the applicant was not present on the day of incident at the said stall after 2.45 p.m. on 7.1.2015 and the applicant did not go to his residence in the said night. The next circumstance is that, a memory card has been recovered at the instance of the applicant. That in the said memory card, the photograph of deceased Prasad was found. These two circumstances are put forth by the prosecution against the applicant. There is no other evidence on record against the present applicant. It appears to me that these two circumstances propounded by the prosecution are prima facie, very weak in nature and did not directly connect the applicant with the present crime.

4] In view of the same, the applicant has made out a case for his release on bail. Hence, the following order:-

- (i) The applicant shall be released on bail in CR No.7 of 2015 registered with Tilak Nagar Police Station, Mumbai on his furnishing PR bond in the sum of Rs.25,000/- with one or two solvent local sureties in the like amount.
- (ii) After his release from jail, the applicant shall attend the office of DCB, CID Unit No.6, Mumbai on every 1st Monday of the month between 10.00 a.m. to 12.00 noon.
- (iii) The applicant shall not tamper with the evidence and/or influence the prosecution witnesses.
- (iv) The application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)

