

Nalawade

FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 611 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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Mr. Sudeep Pasbola and Bhavesh Thakur i/by Rahul Arote for the for the Applicant.

Mr. S.S. Kaushik, APP. for the State.

CORAM : A.S.GADKARI, J.

DATE : 31st August, 2016

P.C.

1) This is an application under Section 439 of the Cr.P.C. in CR No.318/2015 registered with Ghatkopar Police Station, Mumbai under Section 302 read with 34 of the Indian Penal Code.

2) It is the case of the prosecution that accused No.1 Girish @ Gopi Pradhan Bhanushli had advanced a loan of Rs.10.00 lacs to the deceased Vijay Vikamashi. That the said loan was advanced at the mediation of the present applicant. Despite lapse of one year the deceased Vijay Vikamshi did not repay the same to the co accused Gopi. It is the further prosecution case that in the intervening night of 4.8.2015 and 5.8.2015 the accused persons brutally assaulted the deceased Vijay with belt, aluminum pipe, fist and kick blows. That, due to the said assault Vijay died on

the spot. With a view to surface the evidence on record it is alleged that the accused persons poured turpentine on the body of the deceased and covered the dead body with a tarpaulin sheet. That, the said incident had taken place at the loft of the dispensary of Dr. Deeak Bhanushali. On 5.8.2015, the persons in the vicinity noticed foul smell emanating from the said dispensary and therefore, Dr. Vasant Bhanushai informed the said fact to Dr. Deepak Bhanushali. By the time, Dr. Deepak Bhanushali reached to the dispensary police had received the information and the police had already entered into the said premises. The first information report is lodged by Dr. Deepak Bhanushali on 5.8.2015. The applicant came to be arrested on 6.8.2015 by effecting a detailed arrest panchanama. After completion of investigation the police have filed the charge sheet.

3) It is to be noted here that at the time of arrest of the applicant, he was having plaster to his left hand and a deep cut on the rear side of elbow. There was also ½ inch cut wound on his right bicep. There were weal marks on his body and on the back side of his thigh. The said injuries are recorded in the arrest panchanama dated 6.8.2015.

The learned counsel for the applicant submitted that the prosecution has not brought on record any evidence, thereby giving explanation of the injuries suffered by the applicant. The learned counsel has produced on record an injury certificate dated 5/6.8.2015 issued by Rajawadi Municipal Hospital, Ghatkopar. It

appears from the said injury certificates that the applicant has suffered several injuries.

4) There are statements of four alleged witnesses to the incident. However, the said statements are recorded after the gap of 14 days. Prima facie, it appears that there is no plausible explanation given by the said witnesses for not appearing before the police on 5.8.2015 or 6.8.2015 to give information pertaining to the said crime. Prima facie, it appears that the prosecution has not offered any explanation to the various injuries received by the applicant. The learned counsel for the applicant submitted that other co-accused along with deceased Vijay had also forcibly taken the applicant at the said scene of offence and had mercilessly assaulted him.

5) In view of the above I am of the opinion that the applicant has made a case for releasing him on bail.

Hence, the following order.

a) The applicant shall be released on bail in CR No.318/2015 registered with Ghatkpar Police Station, Mumbai 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 Ghatkpar Police Station, Mumbai once in a month i.e. on every 1st Monday of the month between 11.00a m. to 3.00 p.m. till the conclusion of the trial.

c) The applicant shall also attend all the dates before the Trial Court.

- d) Any two consecutive defaults in complying with the aforesaid conditions shall attract the provisions of Section 439(2) of the Cr.P.C.
- e) The applicant shall not tamper with the evidence and/or influence the prospection witnesses.
- f) Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)