Nalawade

FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 751 OF 2016

| Office Notes, Office Memorandam of Coram, appearances, Court's orders or directions and Registrar's orders | Court's or Judge's orders |
|---|---|

Mrs. T.R.Shetty for the Applicant.
Mr. Deepak Thakare, APP. for the State.

CORAM : A.S.GADKARI, J.
DATE : 31st August, 2016

P.C.

1) This an application under Section 439 of the Cr.P.C. for bail in CR No.51/2015 dated 16.2.2015 registered with Kurar Police Station, Mumbai under Section 307 of the Indian Penal Code and subsequently transferred for further investigation to DCB CID, Unit XII, Mumbai having renumbered CR No.27/2015 for the offence punishable under Sections 143, 147, 148, 302, 341 read with 34 of the Indian Penal Code. .

2) The date of incident is 16.2.2015 at about 2.30 a.m. The name of the deceased is Afzal Iliyas Beg @ Afzal Yeda. It is the prosecution case that the co accused namely

Amol Ghuge was abused in filthy language by the deceased on 16.2.2015 when the deceased along with one Shivanand Mishra @ Dabbu was proceeding towards Wagheshwari Temple. The applicant along with other co accused Amol noticed it and questioned the deceased about the same. There were altercations between them, which further resulted into a scuffle. When the scuffle was going on the the applicant lifted a paver block which was lying on the road and assaulted the deceased on his head. It is the further prosecution case that the applicant assaulted the deceased repeatedly with the said weapon. The deceased Afzal Iliyas collapsed on the spot. After receipt of the information the police visited the spot and took the deceased to the hospital. Police Constable Deepak Dhadas lodged the first information report on behalf of the State. Initially the crime was registered under Section 307 of the I.P.C. The deceased succumbed to the injuries in the hospital and Section-302 of the I.P.C. is added in the present crime. After completion of investigation the police have filed the report under Section 173(2) of the Cr.P.C.

3) Heard the learned counsel for the applicant and the learned APP. and also perused the entire charge sheet annexed to the present application.

At the out set, it is to be noted here that there are two eye witnesses to the present crime namely Suraj Thakur and Shashikant Waghmare. Both the witnesses have categorically stated that it is the applicant who has assaulted the deceased by a paver block on his head repeatedly. The post mortem report discloses that the deceased had suffer injuries including two CLW.s on his head. The learned counsel for the applicant submitted that there are in all eight accused persons out of which five accused persons have been released on bail by the Trial Court.

4) I have perused the copies of the bail orders passed by the Trial Court. The role attributed to the present applicant is different than to the other accused persons. The applicant is the main assailant and there are eye witnesses to the present crime. The allegations against the applicant are further corroborated by medical evidence

on record.

5) After taking into consideration the gravity of the offence and the role played by the applicant the Court is of the opinion that the applicant is not entitled to be released on bail.

6) Application is accordingly rejected.

( A.S.GADKARI, J.)