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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 1028 OF 2016

Kiran Shantaram Gaikwad	..Applicant.
Vs	
The State of Maharashtra	..Respondent.

Mrs Anjali Patil for the applicant.
Mr Deepak Thakare, APP for the Respondent-State.

CORAM : A.S.GADKARI, J.
DATE : 24th August, 2016

PC.

- 1) The applicant is seeking bail in CR No. 11/2016, dated 25/1/2016 registered with Mumbai Central Railway Police Station, Mumbai under section 302 of IPC.
- 2) The date of the incident is 24/1/2016. The name of the deceased is Harish Pawar. The first informant Santosh Bhusara in his report has stated that he along with the deceased Harish Pawar after finishing their work, had their lunch with liquor and boarded the local train at Churchgate Railway Station for going to Dahanu. When the train reached at Dadar Railway Station on platform no. 6/7, the applicant alongwith one lady were sitting on a bench on the said platform. That the

deceased took a photo of the said lady (Ms Tejal Patel) from his mobile phone. The applicant got enraged due to the said act of the deceased, he entered into the railway bogie, snatched the mobile phone from the hand of the deceased, removed the memory card and threw the mobile phone of the deceased. The applicant also assaulted the deceased with fist blows and got down from the train. The informant has further stated that as it was feeling difficult for the deceased to breath, he was taken near the door of the said bogie. The deceased was thereafter admitted to the hospital at Palghar. Harish Pawar died on the same day. After receipt of the information the police lodged the first information report and investigated the crime. After completion of investigation the police have filed the charge-sheet.

3) Heard the learned counsel for the applicant and the learned APP. Also perused the copy of the charge-sheet annexed to the application

4) The eye-witnesses including the first informant in their statements have stated that after the deceased took a photo of the lady who was accompanying the applicant namely

Ms Tejal Patel, the applicant got enraged because of the same and thereafter he assaulted the deceased with fist blows. The said witness/lady namely Ms Tejal Patel in her statement has stated that she pacified the said scuffle and thereafter the applicant got down from the bogie of the said train. The first informant has stated that the deceased thereafter was feeling difficult in breathing. It further appears from the record that the police after verifying from the CCTV footage have identified the present applicant and thereafter he is arrested. Prima facie it appears that the present offence is committed in the heat of passion and due to grave and sudden provocation, which was caused by the deceased Harish Pawar.

5) In view of the above, the applicant has made out a case for his release on bail.

Hence, the following order :

ORDER:-

(a) The applicant shall be released on bail in CR No. 11 of 2016 registered with Mumbai Central Railway Police Station, Mumbai on his furnishing a P.R. bond of Rs.25,000/- with one or

two solvent local sureties in the like amount;

(b) After release from jail, the applicant shall attend Mumbai Central Railway Police Station, Mumbai once in a month on first every first Monday of the said month between 3:00 p.m. to 7:00 p.m;

(c) The applicant shall also attend all the dates before the trial Court;

(d) The prosecution is at liberty to file cancellation of bail application as contemplated under section 439 (2) of Cr.PC. if the applicant commits two consecutive defaults in complying with the aforesaid conditions.

(e) The application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)