

sas

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.1162 OF 2016

Mahesh Harishchandra Deshmukh ..Applicant.

V/s.

State of Maharashtra ..Respondent.

Mr.R.B.Mokashi for the applicant.

Mr.Arfa Sait, APP for respondent-State.

CORAM : A.M.BADAR, J.

DATED : 20TH JUNE, 2016

P.C. :-

1. The applicant / accused in Crime No.174/2015 for the offence punishable under section 302 of the Indian Penal Code registered at Khalapur Police Station, District Raigad at the instance of Yogidas Prakash Mehtar by this application is praying for his release on bail.

2. Heard the learned counsel appearing for the applicant / accused. By drawing my attention to the charge-sheet more particularly to the statement of first informant, he argued that offence is alleged to have been committed at 7.45 p.m. of 4th October, 2015 when there cannot be availability of

light for the purpose of identification of the assailants. By drawing my attention to the statement of informant as well as Kishore Bhamane, it was argued that both these statements are divergent on material particulars. It was further argued that the time of taking deceased to the Sai Hospital at 8.05 p.m. whereas time of taking him to Dhirubhai Ambani Hospital was 8.25 p.m. Both these hospitals were adjacent to each other. Hence, according to the learned counsel for the applicant, in view of such evidence of the prosecution, the applicant is entitled to bail as investigation is already over.

3. The learned APP has opposed the application.

4. Perused the charge-sheet. The post mortem report shows that Mangesj Sudam Patil died because of haemorrhagic shock due to rupture of heart due to stab injury. Column No.17 of the post mortem report shows that there was penetrating wound on left side sternum. Column No.20 of the post mortem report shows that because of penetration, heart of the deceased was ruptured.

5. At this stage, one cannot say that evidence of prosecution is lacking in material particulars when the first informant as well as eye witness accompanying him are

consistently stating that the applicant / accused gave blow of a gupti – sharp edged weapon on chest of deceased Mangesh Sudam Patil. Charge-sheet shows that eye witnesses were well acquainted with the accused. As such, even they could identify the accused by his gait and appearance and particularly because of shocking incident of murder of their own friend. Therefore, this is not the stage where identification can be doubted.

6. Prima facie, it is seen from the weapon used and the part of the body chosen for giving the blow that assault was with requisite intention for committing an offence punishable under section 302 of the Indian Penal Code and as such, the order :-

- (i) The application is rejected;
- (ii) However, as the learned counsel for the applicant states that he will extend all necessary co-operation by getting the trial decided in time bound framework, the learned Additional Sessions Judge is requested to expedite the trial and to decide the same as early as possible.

(A.M.BADAR, J.)