

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1613 OF 2016

Dadaso @ Bandu Sukhdev Yamgar

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Kuldeep Nikam Advocate for Applicant.

Mr. Rajan Salvi APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 17th NOVEMBER, 2016.

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is arrested on 24/10/2015 in crime no. 311 of 2015 registered at Kavathemahakal Police Station, District: Sangli for offence punishable under sections 302, 323, 504, 506 r/w 34 of the Indian Penal Code. Investigation is completed and charge-sheet is filed.

2) It is the case of the prosecution that on 20/10/2015, Yogesh Lokhande lodged a report at the police station alleging therein that his sister was married to Shamrao Chaugule 8 to 9 years ago. He had learnt from reliable sources

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that his sister had illicit relations with the present applicant and that was the reason for intermittent quarrels between applicant and the deceased Shamrao Chaugule. It is the case of the prosecution that on 19/10/2015 when the first informant was in the company of the deceased Shamrao Chaugule, present applicant and his associates had approached them and the associates of the present applicant had told Shamrao that they would like to have a talk with him. At that time, present applicant had, in the presence of the first informant told Shamrao that he had relations with wife of Shamrao. Since Shamrao could not tolerate the humiliation, he had slapped present applicant. There was a scuffle and soon thereafter, present applicant had drawn a weapon and stabbed Shamrao to death. The first informant was shocked.

3) It is pertinent to note that a few minutes before the incident, the mother of deceased Shamrao had seen the first informant in the company of the deceased and his friends and at that time, present applicant was also present. The first informant had immediately informed the mother of deceased Shamrao that there was a quarrel between Shamrao and present applicant and that present applicant caused the homicidal death of Shamrao and he had succumbed to the said injury immediately.

4) The accused persons had threatened the first informant of dire consequences and in that circumstances, the first informant was forced to disclose to the doctors that it was a case of accidental death. The crime was registered at 8.30 p.m. on 20/10/2015. The first informant had informed all the relatives about the said incident and had also disclosed that he was an eye witness to the incident. The post-mortem report would clearly indicate that deceased Shamrao had died a homicidal death. There was penetrating injury to the jugular veins.

5) At the time of conducting inquest Panchanama, the police had noted the injuries and had also expressed the opinion that deceased had succumbed to the injuries on his neck. Despite this, the inquest Panchanama was conducted in A.D. No. 99 of 2015 and the dead body was identified by the mother of the deceased. At that very juncture, the police ought to have arrived at a conclusion that it was a case of homicidal death.

6) The learned counsel for the applicant submits that there is discrepancy in the medical history and the narration of the first informant and therefore, applicant deserves to be enlarged on bail. It is also vehemently submitted that the statement of the wife of the deceased would indicate that there was no

illicit relation between applicant and wife of the deceased.

7) As against this, the learned APP submits that it cannot be expected from the wife of the deceased to admit the relations.

8) Be that as it may, it is a case of direct evidence. The ocular evidence would prevail over any other type of evidence and hence, this Court is not inclined to grant bail to the applicant. However, it is made clear that the observations made herein above are restricted to an application under section 439 of the Code of Criminal Procedure, 1973 and the learned Sessions Judge shall not be influenced by the same at the time of trial.

9) Application, being sans merits, stands rejected.

(SMT. SADHANA S. JADHAV, J.)