

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1842 OF 2015

Madhavan R. Kaundar.

...Applicant.

vs.

The State of Maharashtra.

...Respondent.

Mr.S.G.Rajput for the Applicant.

Mrs.S.D. Shinde,APP for the State.

Mr.A.A.Bakshi, PSI, Kanjurmarg Police Station present in court.

CORAM : A.S.GADKARI, J.

DATE : 11th January, 2016

P.C.

The applicant is seeking bail in CR No.19 of 2015 registered with Kanjurmarg Police Station dated 9.2.2015 under section-307, 506(II), 323, 504 read with 34 of the Indian Penal Code.

The date of incident and the time in the present crime is 7.12.2015 at about 7.00 p.m. The name of the deceased is Mr. Yellumalai . The first information report dated 9.12.2015 is lodged by Smt. Shankari Yellomalai Kounder, wife of the deceased Yellumalai. In the said report dated 9.2.2015, she has stated that on 7.2.2015 at about 7.00p.m. in the evening her husband had brought a toy parrot for their son namely Master Pravin then aged about 8-months. At that time, Master Kartik aged about 2 years, son of the applicant went to the husband of the complainant and demanded the said toy. The husband of the complainant did not give the said toy and therefore, Master Kartik started crying and went to his

house.. In the mean time, the applicant armed with a fire wood came at the house of the complainant and started abusing on the ground of the said toy. At that time co-accused i.e. brother of the applicant namely Ayyappan also came there. Ayyappan started beating the deceased Yellumalai by fist and kick blows. The applicant thereafter gave a blow on the rear side of the head and on the face of the victim. The complainant thereafter intervened in the said fight. Due to the assault the victim started bleeding and therefore, the applicant and his brother Ayyappan took the victim by an auto rickshaw to the hospital. While taking the victim to the hospital they also asked their neighbour namely Narayan Pilamal to accompany them. In the premise, the first information report dated 9.2.2015 is lodged.

As far as delay in lodging the FIR is concerned, the complainant has stated that after admitting her husband in the hospital, the applicant and his brother Ayyappan informed the Doctors at Sion Hospital that her husband fell down under the influence of alcohol and had also threatened the said Narayan Paimal not to disclose the said fact to any one. When the complainant realized the said fact she lodged the first information report. After investigation, police have filed the charge sheet.

2) The record discloses that the applicant along with co accused Ayyappan initially assaulted the victim Yellumalai by fist and kick blows and thereafter the applicant gave blows with the aid of fire wood on the head and the face of the deceased. That, when the complainant intervened in the said fight and pacify it, the applicant

and co-accused took the deceased to the hospital and admitted him there.

3) It appears from the record that the deceased succumbed to the injuries on 9.2.2015. It appears to me that the applicant and co-accused Ayyappan did not have the intention to kill the victim Yellumalai. It is apparent from the fact that, the complainant intervened in the said fight and tried to pacify the applicant and after noticing that the victim is profusely bleeding from his head. The applicant along with co-accused took the victim Yellumalai to the hospital and admitted him. In view of the above, I am of the opinion that the applicant has made out a case for grant of bail.

Hence, the following order.

ORDER

- a) The applicant shall be released on bail in CR NO.19/2015 registered with Kanjurmarg Police Station on his furnishing PR bond of Rs.15,000/- with one or two local sureties in the like amount.
- b) After release from Jail, the applicant shall attend the Kanjurmarg Police Station between 3.00 to 5.00p.m. on first Monday of every month.
- c) The applicant shall attend all the dates before the trial court.
- d) The applicant shall not tamper with the evidence and/or influence the prosecution witness.
- e) Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)